Cambria and Clearfield, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. SCHALL: Resolutions from Minneapolis, Excelsior, Buffalo, Braham, Rock Creek, Rush City, and Pine City, all of Minnesota, favoring national prohibition; to the Committee on the Judiciary.

By Mr. SIMS: Petition of citizens of Westport, Tenn., favoring national prohibition; to the Committee on the Judiciary.

By Mr. SLOAN: Two protests of sundry citizens against House bills 6458 and 491; to the Committee on the Post Office and Post Roads.

Also, petition of George S. Schwab and 27 others of Sutton, Nebr., in re interstate shipment of prison-made goods; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Texas: Petition of citizens of Taylor County, Tex., against military preparedness; to the Committee on Military Affairs.

Also, petition of public meeting of 250 people of Aspermont, and public meeting of 200 people of Hamlin, Tex., favoring national prohibition; to the Committee on the Judiciary.

By Mr. SNYDER: Petition of Amalgamated Association of Street and Electric Railway Employees of Utica, N. Y., favoring the enactment of the Burnett immigration bill; to the Committee on Immigration and Naturalization.

Also, petition of Fort Stanwix Chapter Daughters of the American Revolution, of Rome, N. Y., favoring the establishment of a national park on the site of the Battle of Oriskany; to the Committee on Military Affairs.

Also, petition of A. P. Seaton, chairman of the Oneida County (N. Y.) Board of Supervisors, favoring the establishment of a national park at the Oriskany battle ground; to the Committee on Military Affairs.

By Mr. STEENERSON: Petition of 23 citizens of Minnesota and Iowa, protesting against the passage of House bills 491 and 6468; to the Committee on the Post Office and Post Roads

Also, petition of 18 citizens of Oregon, protesting against the passage of House bills 491 and 6468; to the Committee on the Post Office and Post Roads.

By Mr. SULLOWAY: Petition of members of Hudson Grange, No. 11, of Hillsborough County; 33 Woman's Christian Temperance Union people of Rochester; 60 people of Laconia; Freewill Baptist Church, of Gonic; 600 members of Merrimack County Pomona Grange, all in the State of New Hampshire, favoring national prohibition; to the Committee on the Judiciary.

By Mr. TALBOTT: Petitions of Church of the Brethren, 275 people, of New Windsor; 55 people of Baltimore; 126 people of Baltimore; 85 people of Baltimore; 100 people of Cartersville; 50 people of Cartersville; 200 people of Towson; 180 people of Westminster; 78 people of Baltimore; 600 people of Baltimore; and 300 people of Westminster, all in the State of Maryland, favoring national prohibition; to the Committee on the Judiciary.

By Mr. TEMPLE: Papers in support of House bill 13156, granting increase of pension to John G. W. Book; to the Committee on Invalid Pensions.

Also, letter from Mr. Jacob Goldfair and 37 other citizens of Washington, Pa., protesting against the passage of the immigration bill; to the Committee on Immigration and Naturalization.

Also, petition signed by Rev. J. M. Foster and 18 other citizens of New Wilmington, Pa., favoring national prohibition; to the Committee on the Judiciary.

Also, petition signed by Prof. W. S. Hertzog and 25 others, of California, Pa., favoring the Susan B. Anthony amendment for woman suffrage; to the Committee on the Judiciary.

Also, resolution adopted by the Shakespeare Club, of Canonsburg, Pa., numbering 50 ladies, favoring national prohibition; to the Committee on the Judiciary.

Also, resolution adopted by the Methodist Episcopal Church of New Wilmington, Pa., numbering 100 people, favoring national prohibition; to the Committee on the Judiciary.

Also, resolution adopted by the Francis Willard Union, of New Castle, Pa., numbering 200 people, favoring national prohibition; to the Committee on the Judiciary.

Also, petition signed by Rev. M. B. Riley, in behalf of the Methodist Episcopal Church of New Wilmington, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. YOUNG of Texas: Petition of Christian Endeavor Society of Terrell, Tex., favoring national prohibition; to the Committee on the Judiciary.

SENATE.

SATURDAY, *March 18, 1916.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, our fathers trusted in Thee and were not confounded. The ministry of Thy grace has come to us through the influence of the faithful and the achievements of those who have trusted in Thy holy name. The light of Thy glory has not grown dim with the ages. When we have doubted it has been by the influence of the things which we doubt; when we have mistrusted God it has been by the ministry of the things which we ourselves have mistrusted.

Grant us to-day a clear and personal vision of Thy face, that we may know Thy glory, and may know that over all there is a hand that guides and governs and rules, the hand of our God. Let Thy blessing abide with us to this end. For Christ's sake. Amen.

NAMING A PRESIDING OFFICER.

The Secretary (James M. Baker) read the following communication:

UNITED STATES SENATE, PRESIDENT PRO TEMPORE,
Washington, D. C., March 18, 1916.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. LEE S. OVERMAN, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.

JAMES P. CLARKE,
President pro tempore.

Mr. OVERMAN thereupon took the chair as Presiding Officer and directed the Secretary to read the Journal of the proceedings of the preceding day.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. MARTIN of Virginia, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

NATIONAL DEFENSE.

Mr. WORKS. Mr. President, I give notice that on next Thursday I shall submit some remarks on the subject of preparedness for peace.

STRATEGICAL IMPORTANCE OF NAVAL STATIONS (S. DOC. NO. 344.)

Mr. TILLMAN. Mr. President, I ask unanimous consent to have the article I send to the desk printed as a public document. It was prepared by Admiral John R. Edwards, and sent to the United States Naval Institute in competition for a gold medal given by that body. I heard of it and asked to see it, and Admiral Edwards kindly sent it to me. Its viewpoint is so different from that of the average naval officer at the department and so much in consonance with my own ideas and belief that I want to give it the widest possible publicity; or, at least, put it in the archives of the Government so that it can not be lost. Whether the policy he advocates be followed or not, those who read it now or in future years must realize the breadth of view and the patriotic statesmanship he has shown in writing it.

For the purpose of letting people know who Admiral Edwards is, as he is very modest and not self-assertive at all, I will state that he is a retired admiral of the United States and is an accomplished engineer, and that he graduated at the Naval Academy in the engineer force in 1874. He has been at sea on all sorts of naval vessel 16 years, all told. His shore duty has also been varied, and while serving for three years as professor of mechanical engineering at the South Carolina University, where I first knew him, he graduated in law. He was assistant for six years to Admiral Melville, who everybody in Congress knows was a very able engineer. His extensive travel and habit of reading give him very wide acquaintance with all activities connected with our own and foreign navies. He served for two years as president of the Board of Inspection for Shore Stations, to which he was appointed by Mr. Meyer. This specially fits him for discussing the matters in the article mentioned. He takes a broader view and one more philosophical than many naval officers far more prominent in naval circles. Although born in the North he has not allowed sectionalism in any way to interfere with his study of the Navy's needs, from a southern as well as a nothern standpoint.

The most striking thing about this article is his antithetical statement that the advocacy of preparing a great fleet involved as a necessary corollary the provision of yards, piers, and so forth, to repair that fleet and take care of it in war and peace. To prepare and not provide for repair is in his judgment short-sighted and dangerous. His only fault as a writer is his anxiety to "tell it all," which makes him use too many words;

but the wheat is there—lots of it—so I advise anyone, in the Navy or out of it, who wishes to study this last proposition to read this article. It will amply repay perusal two or three times.

The PRESIDING OFFICER. Is there objection to printing the article indicated by the Senator from South Carolina as a public document? The Chair hears no objection, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 11471) to amend an act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, in which it requested the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 562) to amend the act approved June 25, 1910, authorizing a Postal Savings System, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MOON, Mr. FINLEY, and Mr. STEENERSON managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. NORRIS presented memorials of sundry citizens of Crawford and Burkett, in the State of Nebraska, remonstrating against the enactment of legislation to make Sunday a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. GRONNA. I present a resolution adopted by the Minnesota Conference of the Augustana Synod, favoring the placing of an embargo on munitions of war. I ask that the resolution be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

THE LUTHERAN MINNESOTA CONFERENCE
OF THE AUGUSTANA SYNOD,
Minneapolis, Minn., March 13, 1916.

Senator ASLE J. GRONNA,
Washington, D. C.

DEAR SIR:

Since it is the sense of the 100,000 citizens represented by the Minnesota Conference of the Augustana Synod that the sale of munitions of war to belligerent nations is not in harmony with our Nation's prayer for peace nor compatible with true humanity; and

Since the United States having de facto discontinued to exercise its rights to carry on its commerce with the central powers, and thus by partisan dealings with the belligerent nations threatens to drag our country into the European war: Therefore,

Resolved by the Minnesota conference in session assembled, That the Representatives and Senators of the United States be most earnestly requested and urged to empower the President to place an embargo on munitions of war and to warn our citizens against traveling on belligerent ships: Be it further

Resolved, That the secretary of the conference send a copy of these resolutions to all the United States Representatives and Senators of the States of Minnesota, North and South Dakota, and Wisconsin within which States said conference carries on its manifold branches of work.

Yours, very truly,

JOHAN B. A. IDSTRÖM,
Secretary of Conference.

Mr. GRONNA presented a petition of the Commercial Club, of Larimore, N. Dak., praying for an appropriation to put in commission the superdreadnaught *North Dakota*, which was referred to the Committee on Naval Affairs.

He also presented a memorial of the Louisiana Division of the Farmers' Educational and Cooperative Union of America, remonstrating against certain provisions of the so-called cotton-futures bill, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the National Education Association, the American Federation of Labor, and the American Home Economics Association, praying for Federal aid for vocational education, which was ordered to lie on the table.

Mr. BRANDEGEE presented petitions of the Woman's Christian Temperance Unions of East Haven and Plainfield, in the State of Connecticut, praying for Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

Mr. ROBINSON presented a petition of sundry citizens of Alexander, Ark., praying for the placing of an embargo on munitions of war, which was referred to the Committee on Foreign Relations.

Mr. SIMMONS presented petitions of sundry citizens of North Carolina, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented petitions of sundry citizens of Michigan, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of Local Union No. 228, Musicians' Protective Association, of Kalamazoo, Mich., remonstrating against the adoption of certain amendments to the copyright law, which was referred to the Committee on Patents.

He also presented a petition of Local Union No. 130, Cigar Makers' International Union, of Saginaw, Mich., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. DU PONT presented petitions of sundry citizens of Wilmington, Dover, Leipsic, and Wyoming, all in the State of Delaware, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of Merrimack Lodge, No. 5, International Order of Good Templars, of Manchester, and the petition of A. M. White and 6 other citizens, of East Rochester, all in the State of New Hampshire, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. KENYON presented a memorial of sundry citizens of Iowa Falls, Iowa, remonstrating against the enactment of legislation to fix a standard price for patented and trade-marked articles, which was referred to the Committee on Education and Labor.

He also presented a memorial of sundry citizens of Moulton, Iowa, remonstrating against the enactment of legislation to make Sunday a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. HUGHES presented petitions of sundry citizens of New Jersey, praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. PHELAN presented petitions of Local Union No. 108, International Brotherhood of Stationary Firemen, and of Local Union No. 228, Cigarmakers' International Union, of San Francisco; and of the Amalgamated Sheet Metal Workers International Alliance, and the Bridge and Structural Iron Workers and Pile Drivers, of Los Angeles, all in the State of California, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a petition of General Guy V. Henry Camp No. 3, United Spanish War Veterans, of Oakland, Cal., praying for the enactment of legislation to grant pensions to widows and orphans of veterans of the Spanish-American War, which was referred to the Committee on Pensions.

He also presented a petition of Camp No. 1673, United Confederate Veterans, of Visalia, Cal., praying for the enactment of legislation to grant pensions to veterans of the Confederate Army and to widows of such veterans, which was referred to the Committee on Pensions.

Mr. CLARK of Wyoming presented a petition of sundry citizens of Torrington, Wyo., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Lander and Rawlins, in the State of Wyoming, praying for an increase in armaments, which were ordered to lie on the table.

REPORTS OF COMMITTEE ON POST OFFICES AND POST ROADS.

Mr. BANKHEAD, from the Committee on Post Offices and Post Roads, to which were referred the following bills, reported them severally without amendment, and submitted reports thereon:

S. 4884. A bill for the relief of the estate of A. B. Denton (S. Rept. 267);

H. R. 8592. An act for the relief of the heirs of C. S. Barbee (S. Rept. 268);

H. R. 9291. An act for the relief of the estate of Thomas J. Mellon (S. Rept. 269);

H. R. 8787. An act for the relief of the heirs of Hundley V. Fowler, deceased (S. Rept. 270);

H. R. 9458. An act for the relief of the heirs of Santos Benavides (S. Rept. 271);

H. R. 9459. An act for the relief of the heirs of S. P. H. Williams (S. Rept. 272);

H. R. 9555. An act for the relief of the estate of Thomas N. Aaron (S. Rept. 273);

H. R. 9556. An act for the relief of the heirs of John Faulkner (S. Rept. 274);

H. R. 9635. An act for the relief of the estate of Williamson Page (S. Rept. 275);

H. R. 5986. An act for the relief of the heirs of the late Peter Deel (S. Rept. 276);

H. R. 10933. An act for the relief of the estate of Paul A. Swink (S. Rept. 277); and

H. R. 3447. An act for the relief of the legal representatives of the estate of Robert B. Pearce (S. Rept. 278).

TOMBIGBEE RIVER BRIDGE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably with an amendment the bill (S. 4603) to authorize the Jackson Highway Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Tom Beckby, commonly called "Tombigbee," River at Princes Lower Landing, near Jackson, Ala., and I submit a report (No. 266) thereon. I ask for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was, in line 8, page 1, before the words "Princes Lower Landing," to insert "or near," so as to read "at or near Princes Lower Landing."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULBERSON:

A bill (S. 5120) to provide punishment for assaults and threats against the President of the United States and his potential successors in office; to the Committee on the Judiciary.

By Mr. TOWNSEND:

A bill (S. 5121) for the relief of Emma M. Gordon (with accompanying papers); to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 5122) granting an increase of pension to Samuel B. Swift (with accompanying papers); to the Committee on Pensions.

By Mr. SHAFROTH:

A bill (S. 5123) granting a pension to Caroline M. Clancy;

A bill (S. 5124) granting an increase of pension to George A. White; and

A bill (S. 5125) granting an increase of pension to Sadie M. W. Likens; to the Committee on Pensions.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. BANKHEAD submitted an amendment proposing to increase the salary of the clerk to the Senate Committee on Post Offices and Post Roads from $2,500 to $3,000, intended to be proposed by him to the legislative, executive, and judicial appropriation bill (H. R. 12207), which was referred to the Committee on Appropriations and ordered to be printed.

SWISS MILITARY LAW (S. DOC. NO. 360).

Mr. LEE of Maryland. I desire to submit a resolution providing for the printing of the Swiss military law, with an index. I think it will be very valuable to the Senate at this time.

Mr. SMOOT. I should like to ask the Senator about how many pages the document will contain.

Mr. LEE of Maryland. Between 50 and 75 pages, I should say.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The resolution (S. Res. 138) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the manuscript entitled "The Military Law and the Efficient Citizen Army of the Swiss Republic" be printed as a Senate document, together with the index.

OSAGE OIL LANDS.

Mr. LA FOLLETTE. I submit a resolution and ask that it lie on the table and be printed.

The resolution (S. Res. 137) was ordered to lie on the table and to be printed, as follows:

Resolved, That the Committee on Indian Affairs of the Senate, through a subcommittee of five members to be chosen by it, be, and it hereby is, authorized and directed to fully investigate all matters connected with the leasing of the oil lands of the Osage Indians in Oklahoma, the methods of producing, controlling, and marketing the oil production of said lands and all affairs in relation thereto, and that said committee be empowered to send for persons, papers, and books, and to subpœna witnesses, to administer oaths, and to sit during the sessions of the Senate and during vacation; and said committee shall make full and complete report, together with its recommendations thereon to the Senate. The necessary expenses of said investigation shall be paid out of the contingent fund of the Senate.

That pending investigation by the Committee on Indian Affairs of the Senate and further action by Congress, the Secretary of the Interior be, and he is hereby, requested to make no sale of oil leases and to make no oil leases on the lands of the Osage Indians in Oklahoma for a period exceeding 10 years.

HOUSE BILL REFERRED.

H. R. 11471. An act to amend an act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, was read twice by its title and referred to the Committee on Finance.

POSTAL SAVINGS SYSTEM.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 562) to amend the act approved June 25, 1910, authorizing a Postal Savings System and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BANKHEAD. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Presiding Officer appointed Mr. BANKHEAD, Mr. SMITH of South Carolina, and Mr. TOWNSEND conferees on the part of the Senate.

The PRESIDING OFFICER. The morning business is closed.

NATIONAL DEFENSE.

Mr. HARDWICK. Mr. President, I do not propose to-day to enter into anything like a general discussion of the question commonly and generally known as "preparedness," although I will take this occasion to say in a general way that I am heartily in favor of a reasonable program on that subject, fully adequate to meet the necessities of the present situation and fully calculated to put this country in a position to successfully defend itself against any possible foe, to assert and enforce its rights, and to protect and defend its people.

To that end, I am fully prepared to vote any reasonable increase for our Navy, for the correct American view has always been that a strong, well-balanced Navy is our strongest weapon both for offense and defense. I believe, however, that a great deal of misapprehension exists among the people as to the real strength and relative rank of the American Navy. Without undertaking now to specify the authority upon which it is based, although it is most respectable and reliable, I venture to express the opinion that the American Navy already, in gun power and tonnage displacement, ranks third among the navies of the world and is destined to take the second place in the event the German Navy suffers materially from the present war; and also that our Navy is, man for man, gun for gun, and ship for ship, the best in the world. That it is somewhat top-heavy with battleships I believe; but that Congress may provide a proper and well-balanced plan to increase its efficiency by providing the necessary submarines, tenders, coalers, aircraft, and other auxiliary service, as well as provide some way of securing the necessary men to man the ships, is both my hope and belief. A reasonable plan to increase the strength and efficiency of our Navy in a well-balanced, rounded way is or ought to be the task of the immediate present, with a view of putting that Navy indisputably in the second place among the navies of the world as to size and strength and first among them as to efficiency and morale.

In addition to this program, I believe that our coast defenses should be materially improved and strengthened and that a reasonable increase in the size of our standing army is desirable.

It seems to me, also, that the one important consideration in connection with both our military and naval establishments that has been most sadly neglected has been the development of an adequate and efficient corps of aeroplanes, and since as a Member of the other House of Congress I have long urged increases in this branch of the service, which I regard as all important in these days of modern warfare, I earnestly hope this particular phase of the question of preparedness will be given the most careful consideration by the Congress and that such action may be taken in respect to it as to bring us up to the standard of the most efficient armies and navies of the world.

Of course, Mr. President, even such action with respect to our Navy, our coast defenses, our standing army will still leave to us the settlement of one of the most troublesome as well as the most important questions connected with preparedness, namely, How and exactly in what manner shall we make provision for a reserve military force for our country?

The opposition of the people to a large standing army and to compulsory military service, with the tremendous expense and burden to business and industry incident thereto, is not only deep-seated and general but also, in my opinion, well founded and insuperable.

The happy geographical isolation of our country and the democratic and peaceful instincts of its people seem to render it unnecessary for us to embark in the European policy of maintaining an enormous military establishment, and that we are exempt from any such necessity has always been justly esteemed as one of our greatest blessings.

I do not believe that the present situation in any way necessitates or justifies any abandonment of this traditional American policy.

"Peace at any price," can never be the motto of a great nation, or the doctrine of a brave and self-respecting people, but peace, so long as it can be preserved with honor, is the greatest blessing that can come to and remain with a people, and I am confident that no American President or Congress will ever lightly or carelessly involve this country in war with a foreign power.

Prior to the summer of 1914 it seemed incomprehensible and unbelievable that the great Christian powers of the world should become involved in a great war with each other, so great had been the apparent progress, and so wide had been the general spread of both Christianity and education, but on August 2, 1914, the world awoke to the realization that, after all, a reversion to the primitive was not impossible, even with the most highly civilized peoples of the earth, and realizing that war, on a great scale, may come at almost any time, to any nation, our own people have, I think, pretty generally come to the conclusion that it is not only wise, but also absolutely necessary for us to put this country in a position where its people can successfully defend it against any foreign foe.

What plan, then, can we adopt that will least offend against our democratic principles and institutions, will least burden the business and industry of the country, and will, at the same time, give to large masses of our citizens the necessary training that will enable them to render efficient military service for the protection of their country if the unfortunate necessity therefor should arise?

Compulsory and general military service? The very genius of our institutions and the very instincts of our people forbid, unless the stern necessities of a great war should absolutely require it.

Can we, then, make the militia of the various States, sometimes improperly call the "National Guard" the basis of our reserves?

To some extent, yes. I favor increased appropriations to promote their efficiency and to make service in these organizations as attractive and popular as possible, for no one with even a superficial acquaintance with American history can deny that our "citizen soldiery" has made a brilliant record in every war in which this country has been engaged, but there are at least two strong objections to the policy of relying entirely upon these forces for our reserves.

First. The State troops owe allegiance first of all, and properly so, to the various States under whose laws, and by whose authority, they are organized. In times of peace the Government of the United States can exercise little or no real control over these State troops, and whatever influence it can exert must be done in an indirect and awkward way, through holding out the reward of promised appropriations, or the threat of withdrawing appropriations already made.

Second. Under the Constitution of the United States, Congress alone has power to call the State troops into the service of the General Government, and then only "to execute the laws of the Union, suppress insurrections, and repel invasions."

While Congress may, if it chooses, provide for "organizing, arming, and disciplining the militia," it may "govern" only "such part of them as may be employed in the service of the United States," and even as to the militia employed in such service, "the appointment of the officers" is "reserved to the States."

These quotations, from Article I, section 8, paragraphs 15 and 16 of the Constitution, simply state and mark the difficulties that Congress and the President would have in relying solely on the State militia as the second line of our National Army.

We can, and I believe Congress will, make further and more generous provision than we have in the past "for organizing, arming, and disciplining the militia," but after all it must be always remembered that they are primarily the troops of the State and owe their primary allegiance and obedience to the State, and, so far as war with a foreign power is concerned, could be used only to "repel invasion," even though a situation might arise in which a sharp and vigorous offense would be the most effective defense of our country.

In this situation I have prepared a bill which I have recently introduced in this body and which has been referred to our Committee on Military Affairs.

Let me now invite the attention of the Senate, and particularly of Senators who belong to that committee, to its provisions and to some of the reasons that prompt me to believe it deserves the most serious consideration both of Congress and of the country and ought to be enacted into law:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War is hereby authorized and directed to detail, for service as instructor in military tactics, one or more commissioned officers of the United States Army to every college and school in the United States in which there are as many as 50 male students 15 years of age and over in all cases where the college or school authorities make application for said detail, under the provisions of this act, and accompany such application with a statement signed by 50 or more of such students that they desire to become a part of the reserve forces of the United States Army, under the provisions of this act.

"SEC. 2. That upon the filing of an application, as provided for in the preceding section of this act, the Secretary of War shall detail a representative of the War Department to personally examine into the merits of such application to ascertain whether the facts therein stated are true, and also whether the parents or guardians of any minor students of such school or college have assented to such minor students entering into the agreement hereinbefore provided, and all other facts in connection with the advisability of granting or rejecting the application, which he shall report to the Secretary of War, who shall thereupon determine whether or not said application shall be granted.

"SEC. 3. That in case the said Secretary of War determines to grant the application of such school or college, he shall require such male students, 15 years of age and over, who are to receive the benefits of the training herein provided, to sign such papers as he may prescribe and determine, agreeing and obligating to enlist as a part of the reserve forces of the United States Army for and during the term of their connection with such school or college, including vacations, and in no event for less than 12 months. Such students shall not be subject to active military service, except in connection with their training and except in connection with such mobilizations as may be had during school vacations, for which latter service they shall be paid at the same rate that officers and men in the Regular Army of corresponding grades and ranks are paid: *Provided*, That in the event the United States becomes engaged in war or it should become necessary to use troops to repel invasion, suppress insurrection, or maintain peace and order under the Constitution and laws of the United States, then the President of the United States is authorized to call into active military service the whole or any part of the reserve forces herein provided for a period not to exceed 12 months.

"SEC. 4. That the Secretary of War is hereby authorized to prescribe all necessary rules and regulations for the honorable discharge of members of the reserve force from the service upon the completion of their terms of service as hereinbefore provided, and in such other cases as may seem to him reasonable and just, and to provide for the enlistment from time to time of additional students at every school or college where such application is granted.

"SEC. 5. That the Secretary of War is hereby authorized and directed to furnish to all of the reserve forces organized under this act similar arms and equipment to those furnished to the Regular Army of the United States.

"SEC. 6. That if it should become necessary, in order to carry out the provisions of this act, the President of the United States is authorized to provide by appointment a sufficient number of suitable and capable officers of the United States Army to be detailed for duty under the terms of this act.

"SEC. 7. That the sum of $20,000,000, or as much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to carry out the provisions of this act."

According to the census of 1910 there were attending the schools and colleges of the United States 1,948,398 males of all classes, 15 years of age and over. Of this number 1,782,300 were whites, 153,769 were negroes, and 12,329 were Indians, Chinese, Japanese, and others.

Military training in connection with the schools and colleges is so desirable and so beneficial that a large percentage of well-to-do parents send their boys to schools that afford such training.

The bill I offer does not make it compulsory on any school or college to accept its benefits, and no school or college can do so unless it has at least 50 boys 15 years of age and over who are desirous of accepting it, and agree with the full consent of their parents or guardians to do so.

If the bill should be enacted into law, I believe, and no man can do more than predict until we try it out, that a considerable per centum of all the schools and colleges will accept instruction, arms, and equipment under the terms of the bill.

If we get even 25 per cent of the boys attending the schools and colleges to join it, then we would have a magnificent reserve force of 500,000 men for our second battle line.

The military training and discipline that these young men would receive would be incalculably valuable to them physically, mentally, and morally, and as each class graduated from school

or college its members would go out into the walks of civil life with enough military training and knowledge to render them able to give efficient service to their country if need should arise. At the same time there would be no burden upon the business and industry of the country.

As each class graduated the ranks would be filled by the younger boys coming on, so that we would have in this country a constantly increasing number of young men with some military training who were capable of defending the country, without a correspondingly increasing public expense.

These young men could be drilled and disciplined during school days and on Saturdays, and could be mobilized into regiments, brigades, and even larger units during their vacations. For this latter service I think they should receive small compensation, corresponding to the pay of Regular troops. They could be called into active service only at the instance of the President of the United States himself and only in the event that the United States became involved in war, or needed them to "repel invasion, suppress insurrection, or maintain peace and order under the Constitution and laws of the United States."

Mr. President, the system I suggest is, it seems to me, the real solution of the troublesome question that confronts us.

It does not offend against our democratic institutions and instincts, because it has in it not the slightest trace of enforced or compulsory military service. It will afford to our country an insurance policy of constantly increasing value, as year by year it increases the number of our young men who are made capable of efficient military service and who could really and effectively aid in the defense of the country.

The expense that it entails would be strictly measured and exactly limited by the results it produces. For if, as I believe, a large number of young men in our schools and colleges are willing, indeed anxious, to receive the benefits of this training, then, while the expense of officering, arming, and equipping them will be admittedly large, it will only be large in exact proportion to the number of reserves it will furnish.

Comparatively, it will cost far less than any other efficient system that can be devised.

If, on the other hand, we get small returns in the number of reserves, the cost will be small and in exactly corresponding degree.

These young men would be already mobilized in large numbers at every great American city. For instance, it is estimated that New York City would have at least 50,000 reserves, constituted of her own boys, Chicago would have more than half as many, Atlanta probably 2,000 or more. Every American city of whatever size would have already mobilized and concentrated within its own limits a reserve force composed of its own boys proportioned to its population.

Mr. President, these young men would constitute our first battle line, in any event, if this country had a war with a power of the first magnitude. That being true, how much better it is for both the country and themselves to give to them, certainly to all of them who wish to take it, all possible preparation and equipment for the efficient discharge of the first and foremost duty that every patriotic citizen owes to his country if war should come to it.

At this time I shall not trouble myself or fatigue the Senate with a discussion of the details of the proposition. They are unimportant and can be modified to meet any good objections that can be urged to them or to any of them.

But the suggestion itself, the plan it proposes, the system it would establish, is, I believe, of far-reaching importance to the country, and I earnestly hope that it may receive now or in the near future the serious consideration of our committee and of the Senate itself.

PROHIBITION IN THE DISTRICT OF COLUMBIA.

Mr. JONES. Mr. President, I had given notice that to-day I would follow the Senator from Georgia [Mr. HARDWICK], but I understand the Senator from Oregon [Mr. CHAMBERLAIN] would like to have taken up the bill for an increase in the number of cadets at West Point that was under consideration yesterday, and which will probably only take a few moments. I understand also that the Appropriations Committee would like to have the urgent deficiency appropriation bill passed. I will yield for that purpose, unless the measures to which I have referred consume too much time, in which case I shall ask for recognition.

INCREASE IN NUMBER OF CADETS AT WEST POINT.

Mr. CHAMBERLAIN. Mr. President, I should like to have the Senate take up and act upon the bill (S. 4876) to provide for an increase in the number of cadets at the United States Military Academy.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill named by the Senator from Oregon? The Chair hears none.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4876) to provide for an increase in the number of cadets at the United States Military Academy.

Mr. CHAMBERLAIN. I believe the Senator from Kentucky has an amendment which he desires to present.

Mr. JAMES. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Kentucky will be stated.

The SECRETARY. In line 4, on page 1, after the word "two," it is proposed to strike out the word "from" and to insert the word "for"; in line 10, on page 1, after the words "of the," it is proposed to strike out the words "congressional or."

Mr. JAMES. That amendment, Mr. President, provides that a Representative who has not an eligible in his district for appointment as a cadet at West Point may, if he so desires, appoint a young man from another congressional district in his State.

Mr. REED. I am unable to hear the Senator from Kentucky.

Mr. JAMES. Under the law as it now exists a Representative can only appoint a young man from his own congressional district as a cadet to West Point, but in some of the districts there are no applicants. This amendment proposes to make it permissible, if the Representative desires to do so, for him to appoint a cadet to West Point from some congressional district in the State other than his own. I think it is a wise amendment, and that it should be adopted.

Mr. GALLINGER. Let the text be read as it will read if the amendment be adopted.

The PRESIDING OFFICER. The language will be read as proposed to be amended.

The SECRETARY. As proposed to be amended it will read:

That the Corps of Cadets at the United States Military Academy shall hereafter consist of 2 for each congressional district, 2 from each Territory, 4 from the District of Columbia, 2 from natives of Porto Rico, 4 from each State at large, and 60 from the United States at large. They shall be appointed by the President and shall, with the exception of the 60 appointed from the United States at large, be actual residents of the Territorial district, or of the District of Columbia, or of the island of Porto Rico, or of the States, respectively, from which they purport to be appointed.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Kentucky.

Mr. CHAMBERLAIN. Mr. President, I desire to say that, since the Senate adjourned, I have taken up this matter with the Judge Advocate General and asked his opinion as to the propriety of accepting the amendment and whether it would meet the objections which were made by a number of Senators yesterday, notably by the Senator from Rhode Island [Mr. LIPPITT] and the Senator from Kentucky [Mr. JAMES]. The Judge Advocate General thought the amendment would meet those objections and relieve some trouble that the department has had in dealing with the subject.

Mr. SUTHERLAND. Mr. President, let me ask the Senator from Kentucky whether he thinks he has made it perfectly clear that the appointees for the congressional district must come from the State in which the congressional district is situated?

Mr. JAMES. Undoubtedly that is clear, Mr. President, because it provides that they shall be from the Territorial district or the District of Columbia or the island of Porto Rico or from the States, respectively. There are two appointed for each congressional district.

Mr. SUTHERLAND. I caught the reading rather imperfectly and perhaps my impression is an erroneous one.

Mr. JAMES. Provision is made for the appointment of two from each congressional district, and of course they are appointed by the President on the recommendation of the Representative from the district.

Mr. SUTHERLAND. The language is that they shall be "actual residents of the States"——

Mr. JAMES. Respectively.

Mr. SUTHERLAND. "Respectively, from which they purport to be appointed."

Mr. JAMES. That is the provision.

Mr. SUTHERLAND. I doubt very much whether the language is such as to make the intention perfectly clear.

Mr. JAMES. I will state to the Senator that I submitted the amendment to the Judge Advocate General of the Army, who said that it met the objection and was the proper way to remedy the situation.

Mr. SUTHERLAND. I suggested a form of amendment yesterday which, it seems to me, made it clear. The amendment

was to strike out the clause which reads "two from each congressional district," so that it would read:

Two from each Territory, 4 from the District of Columbia, 2 from natives of Porto Rico, 4 from each State at large and in addition 2 for each congressional district within the State, 60 men from the United States at large—

And so on. That form of amendment, it seems to me, would make it clear that the cadets appointed for each congressional district must come from the State in which the respective district may be located.

Mr. JAMES. I do not think there can be any doubt about that under the amendment I have proposed. It provides for the appointment of two cadets for each congressional district, and that they shall be actual residents of the States from which they are appointed. Of course, when a Representative makes an appointment—say, he is a Member of Congress from Utah, his appointee may be from one or the other of the congressional districts of Utah, but he must be a resident of the State of Utah. That is what the amendment means.

Mr. SUTHERLAND. If the Senator is satisfied with the language employed and the Judge Advocate General thinks it is sufficient, I will offer no objection.

Mr. JAMES. I think it is perfectly satisfactory. In this connection I ask leave to have printed in the RECORD a letter from the Judge Advocate General in regard to the amendment.

The PRESIDING OFFICER. In the absence of objection, it is so ordered.

The letter referred to is as follows:

WAR DEPARTMENT,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, March 17, 1916.

Hon. OLLIE M. JAMES,
United States Senate.

MY DEAR SENATOR JAMES: In response to your telephone inquiry of this afternoon I quote below the law governing the appointment of cadets to the United States Military Academy:

"The Corps of Cadets shall consist of 1 from each congressional district, 1 from each Territory, 1 from the District of Columbia, 2 from each State at large, and 30 from the United States at large. They shall be appointed by the President, and shall, with the exception of the 30 cadets appointed from the United States at large, be actual residents of the congressional or Territorial districts or of the District of Columbia or of the States, respectively, from which they purport to be appointed. (Sec. 1315, R. S., as amended by sec. 4, act of June 6, 1900; 31 Stat., p. 656.)

Very truly, yours,

E. H. CROWDER,
Judge Advocate General.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Kentucky.

The amendment was agreed to.

Mr. CHAMBERLAIN. Mr. President, there is one other amendment which I desire to propose. It has been suggested to me since the discussion yesterday that there are two or three, and possibly more, young men in the academy whose status is sometimes questioned because of the fact that they may have been appointed from some other State than the State in which they then lived or possibly from some other congressional district. It seems to me there ought not to be any question about that, and I thought it might be well to amend the first section by adding a proviso as follows:

Provided further, That the appointment of each member of the present Corps of Cadets is validated and confirmed.

Mr. President, from my viewpoint I hardly think such an amendment is necessary, because I do not construe the preset statute as the War Department does nor as my friend from Kentucky construes it; but however that may be, the amendment which has already been adopted cures what some Senators regarded as a defect, and in order to remove any doubt concerning the matter to which I have referred I move that section 1 be amended by adding the proviso which I have just read and which I send to the Secretary's desk.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. It is proposed to add, at the end of section 1, the following proviso:

Provided further, That the appointment of each member of the present Corps of Cadets is validated and confirmed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED. Mr. President, I call attention to section 2, which reads as follows:

SEC. 2. That the President is hereby authorized to appoint cadets to the United States Military Academy from among enlisted men of the Regular Army, between the ages of 19 and 22 years, who have served as enlisted men not less than one year, to be selected under such regulations as the President may prescribe, at the rate of one for each regiment of the mobile army.

I move in that section, at line 12, to strike out the word "one" and insert the word "five," so that instead of one man being eligible from each regiment for West Point, five shall be eligible. I hope the chairman of the committee in charge of the bill will accept the amendment.

Mr. CHAMBERLAIN. I did not hear the amendment.

Mr. REED. If the amendment should be adopted, the President would be authorized to appoint to West Point not to exceed five men from each regiment instead of one man, as the bill now reads.

I desire to offer a few observations in support of the amendment.

I think the one matter that holds back the recruiting of the Regular Army and that has a tendency to keep the more ambitious young men out of the Army are the difficulties in the way of any real advancement. I think that no class of men will do the best work of which they are capable unless there is some incentive to effort. A great many young men who have an ambition along military lines would join the Army if they could see a way to an education and promotion. The amendment I offer will give only about one man to each two companies. If I could have my way, I would arrange so that the United States Military Academy would be open to every soldier of the United States Army who could qualify himself for admission and who came within certain age and physical limitations. I would hold the door for promotion wide open to him, and by doing that I think encouragement would be given to the young men in the Army to study and to work in order to fit themselves for advancement. Besides, great encouragement would be given to them to enter.

I can see no reason why we should not introduce that much of the merit system into our military plans for the future. I have made the number five because I do not want to be immoderate or to ask anything that is radical; and yet I am certain that it would be wise to open the doors of the Military Academy to every soldier who could qualify and who would come within prescribed limitations as to physical and mental attributes.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Michigan?

Mr. REED. I do.

Mr. TOWNSEND. I do not know what the amendment of the Senator is.

Mr. REED. In line 12 of page 2——

Mr. NORRIS. The Senators must mean line 14.

Mr. REED. In the copy that I have it is line 12.

Mr. NORRIS. In the copy that I have line 12 says that the President can appoint enlisted men who have served not less than one year. The Senator's amendment would make that read "who have served not less than five years."

Mr. REED. Oh, no. The copy that I have reads as follows. I will read it to the Senate:

SEC. 2. That the President is hereby authorized to appoint cadets to the United States Military Academy from among enlisted men of the Regular Army between the ages of 19 and 22 years who have served as enlisted men not less than one year, to be selected under such regulations as the President may prescribe, at the rate of one—

Which I change to "five"—

for each regiment of the mobile army.

Mr. NORRIS. There must be more than one print of the bill, then.

Mr. REED. My attention is called to the fact that there are two prints, and that the calendar print has the word "one" on line 14, as the Senator suggests, whereas the committee print has it on line 12. I therefore desire to have my amendment apply to the word "one" in line 14.

I should like to get some expression from the Senate on this subject. I really think if we opened the United States Military Academy to every boy in the Army who came within certain physical and mental qualifications it would be a great step in advance.

Mr. SMITH of Georgia. Mr. President, does the Senator, then, increase the number that go to West Point?

Mr. REED. Yes.

Mr. SMITH of Georgia. Or does he take these additional four from the congressional recommendations?

Mr. REED. No; they are to come from the Army. This is the clause of the bill that applies to promotions from the Army. The bill, as drawn, limits the President to the appointment of one from each regiment. Under the bill, about one out of a thousand will have a chance to go to West Point. I suggest five.

Mr. SMITH of Georgia. Now the Senator increases it to five?

Mr. REED. To five. At the same time I frankly state that I would like to have it so that every boy in the Army who can qualify mentally and physically and morally may be permitted

to enter West Point. Upon that question I very much desire to secure the views of Senators.

Mr. SMITH of Georgia. I should like to ask the Senator what he would think of taking those additional four, if there is not room for more than the bill provides, from those recommended by Senators and Congressmen? I am thoroughly in favor of taking every man we can from the ranks and sending them to West Point, and giving him the preference over congressional recommendations or any other kind of recommendations.

Mr. REED. I do not know whether it is necessary to cut down those who are recommended by Congressmen and Senators; but, so far as I am concerned——

Mr. JAMES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kentucky?

Mr. REED. Permit me to finish my sentence, I then will yield. So far as I am concerned, I do not believe we can ever build up the Army until we democratize it——

Mr. SMITH of Georgia. I sympathize with the Senator's views.

Mr. REED. And until we hold the prize of promotion and advancement before the young men who enter the Army.

Mr. JAMES. There is nothing in the law, however, that would prevent a Member of the House or of the Senate from appointing one of these men from the Army.

Mr. REED. Oh, that is true; there is nothing to prevent it; neither is there anything to prevent that being done under the present law; but will somebody tell me what Member of Congress has done so? I do not know of any such appointment having been made.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED. I do.

Mr. SMOOT. I will say that I am in sympathy with the position taken by the Senator from Missouri; but I wish to ask the Senator if he has figured what increase in the number his amendment would make?

Mr. REED. No; I have not. The bill has just been called up, and there has been little opportunity for me to examine its terms.

Mr. SMOOT. I will say to the Senator that off-handed, as I figure it, it would be about 240; and I was wondering, with the increase we already make in the bill, whether the additional increase of about 240 could be taken care of at West Point under the present conditions.

Mr. DU PONT. Mr. President, I should like to say to the Senator from Utah, if the Senator from Missouri will permit me, that as the Army is now constituted it would mean something like 275 or 280, and if the Army should be increased, we would have 500 or 600 under the new bill.

Mr. SMOOT. I was speaking, Mr. President, of the Army as it is now constituted; and, just figuring roughly, I thought it would be about 240. The Senator from Delaware may be right. It may be 275.

Mr. REED. Mr. President, I am not sure that I understand the logic of the objection, if it was meant as an objection.

Mr. SMOOT. No, Mr. President; I do not want the Senator to take it as an objection. I wanted the Senator to consider, if he had not already done so, if the increase is made, where or how the increase could be taken care of.

Mr. REED. Mr. President, if the Senator refers to the housing of the men at West Point, then my answer to that is that the difficulty must be met just as we must meet all the other questions touching the increase in our Military Establishment. If we need larger quarters, we must build them. They need not be so expensive as to be either burdensome or prohibitive.

Mr. SMOOT. I will say to the Senator that with the increase in the bill as reported, as I understand, will require three cadets to live in one room. With the additional increase, I was wondering whether the Senator had asked the officials of the War Department whether temporary arrangements could be made to house them.

Mr. REED. So far as that is concerned, it would take about 90 days, if we proceeded in governmental matters as we do in private affairs, to build all the quarters necessary; and the appointments by the President could be held up until such time as, in the President's judgment, the quarters were adequate.

May I ask the attention of the Senate just a moment on this matter? I give it as my very humble opinion that you will never build up the military spirit and military knowledge among the masses of the people until you have made it so that an entrance into the Army affords a reasonable opportunity for advancement, education, and general improvement. Will somebody tell me what reason there is to-day for a young man to enter the Regular Army, at $15 a month, on a long term of service that takes the very best years of his life from him; that affords practically no room for intellectual improvement; that teaches him no trade or occupation; that turns him out at the end of that period without money in his purse, without business acquaintance, without any of those attributes which are being acquired and cultivated by the ordinary young men of the country who are not in the Army?

Create a system under those conditions and it inevitably results in what? In the unfortunate going into the Army because he can do nothing better; in the man of slight attainment or slight ambition going into the Army because he can not do better outside. Under such conditions you can not secure the best material for the Army. I say that without desiring to reflect on the rank and file of the Regular Army. I speak of the system and do not refer to the personality of the men.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I yield to the Senator.

Mr. SMITH of Georgia. I wish to call the Senator's attention to the fact that this bill carries an increase, if all the places are filled, of 566 men at West Point. It is questionable whether West Point can handle more, or whether it is desirable to more than double the number at West Point to meet the increased demand.

Now, I want to make this suggestion to the Senator, and ask his consideration of it: Why not let all of these 566, the entire increase, be promoted from the young men who volunteer in the service, instead of having congressional and senatorial nominations? Why not use that entire number for promotion?

Mr. GALLINGER. Mr. President, will the Senator permit me a moment?

Mr. REED. Certainly.

Mr. GALLINGER. The very suggestion the Senator from Georgia has made I was intending to make myself. The appointment of these young men upon recommendation of Members of this body and the other House is a burden rather than otherwise, very much like getting offices for clerks and others, if we could get them. Our troubles begin just when we get the appointments. For myself, I should be very glad to surrender the two appointments that I will have, if this bill goes through, and the two that I have in the Naval Academy, and turn them over to these young men who have enlisted, and give them a better opportunity to achieve success and to get proper promotion. I think it is a wise suggestion.

Mr. SMITH of Georgia. I should be gratified to have the increase go by way of promotion from the young men who volunteer into the service; and I would also gladly give up the present privilege of nomination and let all of the nominations to West Point go in the shape of promotions from young men who volunteer in the service.

I agree with the Senator from Missouri that the men in the ranks—he did not say that, but I do—have not had proper treatment in many ways, and that is why volunteering has been so slow. If we will give proper recognition to the private soldier, to the man with the colors; if we will undertake, in addition to the military training, to make part of the training at least an average of several hours a day training for civil life, and then give these promotions from the private soldiers to West Point, as suggested by the Senator—I am going to vote for his provision of five if it takes a reduction of the others under the assignment—if we will give them that opportunity enlistment officers will not be going over the country and striving to get volunteers; we will be called on to classify them and limit them from the States to their proper proportion.

Mr. REED. The Senator from Georgia has anticipated me. He has said in a very much better way than I could some things I intended to say.

I am firmly convinced, Senators, that we never will have a great body of trained men in the United States, even in a Regular Army, unless we do something to bring the traditions and customs of military service up to at least within 300 years of the twentieth century.

I will relate this incident, which I read the other day in a magazine. In the English Army they have adhered to the old class distinctions between the enlisted man and the officer. The article referred to stated that there were two sons of a nobleman in the English Army, one an officer, the other a private. It happened recently that both were wounded and were at the same time furloughed home. The regulations required them, as this article stated, to wear their uniforms when at home. The result was that these two brothers, who were affectionately at-

tached to each other, could not in their own mother's house sit together at the same table.

Now, I am not a military expert, and there may be a great many things necessary to be done in the way of disciplining an army that I do not know about, but under a system like that no red-blooded man is willing to be an enlisted man, unless it be when his country's peril is such as to call for great sacrifices. We teach our youth pride of character; we teach the doctrine of equality; we teach every man to believe that he is as good as any other man and "a little better." That is the best spirit ever instilled in a people. Pride of character is the mainspring of ambition, sacrifice, fortitude, courage, and all other attributes which constitute together nobility of mind.

When, therefore, you ask men to enlist and say to them, "You will get $15 a month while you are here, but you must understand that there is an impassable line drawn between you and a commissioned officer that divides you from him socially and morally," the result inevitably is that you do not get that class of men who could under different circumstances be obtained.

On the other hand, if we say to every boy who enters the Army, "There is not alone here a chance to make a living, but there is, in addition, the opportunity to acquire an education and to graduate from a great military college where you may acquire not only a military education but a splendid general education that will fit you to be an engineer or to enter a counting house or to fill other honorable and remunerative avocations," then you will draw into the Army hundreds and thousands of young men who will enlist because the Army is the open door of opportunity.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. REED. One sentence, and then I shall gladly yield. Now, it will not only be the five men who gain appointments who will be bending to their tasks and improving their minds, but it will also be a large number of aspirants who will vastly improve their usefulness, even though they may not succeed in passing the prescribed examination. So there will be a large number of men who may never enter West Point who will be better fitted for citizenship. I yield to the Senator from Nebraska.

Mr. HITCHCOCK. I sympathize with the purpose of the Senator's amendment, and if a deduction could be made from the appointees by Senators and Representatives I should favor it, but I wish to ask the Senator what he proposes to do with these additional officers when they graduate at West Point?

Mr. SMITH of Georgia. Is it true that if the number——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. HITCHCOCK. Let the Senator answer my question.

Mr. REED. I am going to answer it.

Mr. SMITH of Georgia. I was going to suggest——

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. REED. I have the floor.

The PRESIDING OFFICER. The Senator from Missouri yielded to the Senator from Nebraska.

Mr. REED. I yielded for a question. Does the Senator from Georgia desire to ask me a question?

Mr. SMITH of Georgia. I do.

Mr. REED. I yield for that purpose.

The PRESIDING OFFICER. The Senator from Missouri yields to the Senator from Georgia.

Mr. SMITH of Georgia. Would not the amendment, merely placing the figure 5 in place of the figure 1 from each regiment, reduce the number that each Senator and Representative could have? It does not increase the total number at all. If we place the figure at 5 in place of the figure 1, as suggested by the Senator from Missouri—I have just been studying the bill to see if it would not be true that we would still have but the 2 for each congressional district and 2 for each Senator.

Mr. HITCHCOCK. That is not my understanding of the bill. My understanding is that those whom the President appoints are in addition to those whom Senators and Representatives appoint.

Mr. SMITH of Georgia. The 60 would be; but if we had the provision of 5 from each regiment, without providing in the earlier part of the bill for an increase, the additional men from each regiment must come out of those provided for generally in the bill, and thereby reduce the number of congressional and senatorial appointments.

Mr. HITCHCOCK. No; I think the Senator is entirely wrong. As I figured it up hastily, the amendment of the Senator from Missouri would add about 800 students to West Point. It may be that we can accommodate under the new bill that we are about to pass——

Mr. REED. Mr. President——

Mr. HITCHCOCK. If the Senator will permit me to continue, it may be possible that we can add 500 or 600 or 800 students to West Point, but when those students graduate they will be officers, and I ask the Senator what he then is going to do with those additional officers?

We certainly have already, as I consider it, a top-heavy condition of the Army, and I believe that the bill as now proposed by the Committee on Military Affairs will render that top-heavy condition still more top-heavy. The amendment of the Senator, unless it is modified, will, in my opinion, add a good many hundred officers to the permanent list of officers of the Army. I ask what are you going to do with them?

Mr. REED. Mr. President, I shall try to answer with entire frankness. I remark, in the first place, that the President is only "authorized," not commanded, to appoint cadets from the Army. The language of the bill is that the President "is hereby authorized to appoint one from each regiment." The proposed amendment would make the bill read that the President "is hereby authorized to appoint five from each regiment." So, if a top-heavy condition should be created, the President, I take it, would not have to make the appointments.

But I remark, in the second place, that the Senator is mistaken or else I am mistaken about the proposition that a graduate of West Point becomes an officer. I understand that he is qualified for an officer and a long custom has resulted in his being commissioned. I may be in error.

Mr. HITCHCOCK. The Senator is in error. After a man graduates at West Point or Annapolis he can only retire from the Army or Navy by resigning and having his resignation accepted. As I recall it, when he enters West Point or Annapolis he signs a pledge not to retire within eight years.

Mr. REED. Yes; but he is not a second lieutenant when he comes out of the academy until he has been duly commissioned. I think that is correct.

Mr. HITCHCOCK. The Senator is mistaken there. Upon graduation he becomes a second lieutenant.

Mr. REED. You will find he has to have his commission. But I do not care to discuss it; it is aside from the issue.

The real issue raised by the Senator's question is, What will we do with our graduates if we have more than we need for officers? I have answered that in one way. I suggest a further answer: If the time comes when we find that these young men—and it will be three years from now when they can be graduated—are likely to become too numerous, it is easy enough when that condition arises to pass a statute reducing the number of cadets.

I remark, in the third place, that if we are proceeding along sound lines, if there is any reason for an increase in the Army and Navy of the United States, that reason will in all human probability continue and grow greater during the next two or three years, and the place we will be weakest will not be in the number of enlisted men we can obtain, because we can obtain enlisted men in case of danger almost without limit. The main difficulty will be to get officers to train those enlisted men.

I call the attention of the Senate to the fact that military matters have been absolutely revolutionized in recent years.

Time was when the staunch yeomanry of our land could seize their rifles and give battle to the best-trained soldiers of Europe. The frontiersmen at Lexington beat back the British Regulars. The men in coon-skin caps at Concord routed their trained antagonists. The riflemen of Jackson decimated and dismayed the flower of Wellington's veterans.

But this was because the antagonists were equally armed. The rifle of the woodsman was as efficient as the musket of the soldier. The patriotism of the citizen fighting for liberty rose superior to the training of the hired Hessian. If the armies of to-day fought with rifles, then I would not hesitate to declare that the volunteers of America, standing upon their seagirt shores, could hurl back into the ocean the combined soldiery of Europe.

But there has been a revolution in all things mechanical, which has nowhere been so complete as in the machinery of war. A century of progress is behind us. The pack horse has given place to the power truck and the lightning express, the horseback courier to the winged telegraph and telephone. Time has been obliterated, distance annihilated. The hand loom, the scythe, the sickle, and the cradle are now curiosities upon which we gaze with mingled mirth and pity. The age of machinery has driven out the crude implements of our fathers. Vast factories rear their gigantic smokestacks in all parts of the land. Armies of men and women work beneath a single roof. The miracle of web and loom perform tasks which the toiling fingers of hundreds were wont to do. Flying shuttles

move with a rapidity that defies the eye. Delicate nerves of steel control machines with a combined power of 10,000 men. The forces of nature harnessed by the genius of man are driven by the invisible threads of the intellect.

In this great industrial and mechanical race America has kept pace, nay, outdistanced competition. But it has not been so in the art of war. While our genius has bent to the problem of industrial and mechanical supremacy, the brains of Europe have been employed in producing a titanic machinery of destruction. They have invented cannon that will hurl a shell weighing a thousand pounds more than 20 miles.

Before modern artillery fortifications regarded as eternal dissolve as mist before the summer sun.

The alchemy of hell has distilled vaporous poisons that like myriads of serpents creep along the surface of the earth to burn with deadly breath the lungs of men.

Assassins of the seas hide beneath the waves and lie in wait to murder unsuspecting passengers on ships.

The air is filled with flying dragons that vomit fire and death upon the peaceful homes where wives and babies sleep.

Ships of war have been transformed to mighty floating fortresses that cross the Atlantic in five days of time.

Wisdom demands that we shall recognize the cold, brutal fact that power and force rule in this grim old world.

The handling of this machinery requires long training and the highest technical skill, the same long course of study that is required by a man who is to master electrical engineering, the same long experience that is required to fit a man to handle a locomotive, the same kind of patient preparation necessary to fit a man for one of the learned professions. If we have war, our greatest weakness will be in the lack of military experts. We must strengthen ourselves in that respect if we are to meet on equal terms the armies of Europe.

Now, we are creating this army for some purpose. It is not created merely for amusement; it is created in the hope that we may have eternal peace, but it is created in the belief that we may some time have war; and if war comes, I say to the Senate of the United States what we shall most need will be experts. You will get plenty of men who can handle a rifle; there will be no lack of brave boys who will expose their bosoms to the storms of war, lay down their lives in defense of home and country. But, sir, we must have machinery and we must have men who can intelligently handle that machinery. So I insist that the objection that we may have too many men in West Point in the next two or three years is not a sound objection.

If we ever are involved in a great war—which God forbid—instead of mustering our men in by the thousands we shall muster them by the hundreds of thousands. Instead of an Army of two or three hundred thousand men we will find ourselves massing two or three million men. Such an Army will be at less than one-tenth of its possible efficiency unless there be men who can skillfully handle batteries of cannon, unless there be men who can manage the delicate and intricate enginery of destruction with a skill equal to the best genius of our antagonist. So I say to the Senate that an increase of three or four hundred cadets need not be feared. We ought rather to court such an increase. I thought my little amendment was so modest it would be accepted.

I am going to say another word while I am speaking regarding the democratization of armies. The French have adopted a different system than has heretofore been in vogue. Again, I do not profess to be an expert, but, if my reading has been correct, the line between the French volunteer and the French officer is very shadowy. Upon the field of battle or in the hour of danger military discipline fixes its iron rule and absolutely gives the officer dominance; but when that particular duty has been ended the officer and the enlisted man meet much more nearly on a level than they do in the armies of other nations. Who is it to-day can challenge the success of that system? I make no invidious distinction when I declare that the world has never furnished a higher example of devotion and of deathless courage than is being displayed every day in the month-long battle now raging before the fortress of Verdun. If we are ever going to have a great army in the United States—I refer not to an army of regulars, but to that greater and more efficient army upon which we must ultimately depend in time of danger, namely, the common people of the land—if we are to have a mighty body of trained citizens, we must make it so that a man can enter the Army as a private and yet remain and be treated as a gentleman.

What is the effect of permitting a number of promotions from the ranks? I appeal to Senators to think of the matter, and I believe they will see it as it comes to me. The officer having under him an enlisted man and knowing that the private has the opportunity under the law to enter the list of commissioned officers and to pass with him in any place whatsoever, to be received in his home, to be his associate in the council tent, will instinctively begin treating that private with a more kindly consideration. Upon the other hand, the private who understands that he will have an opportunity to some day associate with the officer will be inclined to fit himself for the higher walks of life that are usually trod by the officer. He naturally will cultivate the amenities and the kindlinesses which he hopes will be the foundation for a future association.

It seems to me beyond all question, if the Republic is to have a great military force—and I do not speak of the Army; I speak of the country at large—then we must make soldiering respectable, and to accomplish that we must encourage the enlisted men to train themselves for a higher service.

Permit me while I am on my feet to add another thought. It is this: I do not believe we ought to have long-term enlistments. I believe it ought to be so that a young man, even a young man out of work, temporarily could enter the Army for 12 months of time, and having served out his short enlistment, go back into civil life. If we had such a system I believe there would be thousands of young men who would enter the Army because, perhaps, they were temporarily out of employment; others would enter for the experience to be gained. Deny it who may—and I know the ordinary Army officer is on the other side of the question—but deny it who may, I say that an ordinary American boy, with 12 months' of training, will make a first-class soldier; one who can be relied upon to do his full duty upon the bloody field of war.

So I am in favor of encouraging men in the ranks; I am in favor of hanging prizes before them, and I think we can well afford to offer five prizes each year to 5 ambitious boys out of each 1,000, and that we shall not thereby overburden our Government.

Mr. HARDING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. REED. I yield to the Senator.

Mr. HARDING. I should like to ask the Senator from Missouri if he contemplates a change in the regulations of the Military Academy so that an educational test shall not be necessary to enter it?

Mr. REED. Oh, no. This bill requires the educational test. The man, in order to enter, must qualify physically and mentally; he must pass identically the same examination that is passed by a boy who is appointed by the President at the request of a Senator.

Mr. HARDING. Then, I should like to ask the Senator if he believes it is possible to secure these entries for West Point from the ranks of the Regular Army?

Mr. REED. I certainly believe it. The bill contemplates it; the bill contemplates that we can get one, and if we can get one I think we can get five; but if the men do not qualify, then, of course, they will not be appointed.

I will say to the Senator from Ohio—who, I think, came in after the discussion began and probably did not hear quite all of it—that the bill contemplates an increase by appointment and it also contemplates the appointment of one man from each regiment, who shall qualify. I simply propose to change the figure "1" to the figure "5," so as to offer that many more men an opportunity.

Mr. HARDING. Mr. President, will the Senator from Missouri allow me to interrupt him further?

The PRESIDING OFFICER. Does the Senator from Missouri further yield?

Mr. REED. Yes.

Mr. HARDING. I do not want my attitude misconstrued; I rather like the idea proposed by the Senator from Missouri; but it seems to me that such a step as this which is now proposed will require an extended reorganization of the present plan of educating officers. I should like to support some practical measure that will carry out this idea; but I am not quite content to believe that this number is available from the Regular Army as now constituted.

Mr. REED. If they are not available they will not be appointed. The bill calls for the appointment of one, if one shall qualify.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. I do.

Mr. VARDAMAN. I should like to suggest to the Senator from Missouri that, if this bill passes with his amendment, it would be the duty of Congress—and I dare say it would be

done—to make provision for the maximum number of cadets that may be appointed under the bill.

Now, if the Senator will pardon me, I am very much in sympathy with the purpose of his amendment, but I do not think that we ought to go wild upon the question of creating officers for the Army now. I desire to say that when a young man is so much in earnest that he adopts the Army as his career and will join the Army as a private, it is pretty good evidence to my mind that he is going to try to make good. If the cadets to West Point should be taken from the Army, from that class of meritorious young men who are willing to work their way through, instead of giving their nomination to Representatives and Senators, I should very much favor the amendment offered by the Senator from Missouri.

Mr. SMITH of Georgia. Why not, then, instead of increasing the number which Senators and Representatives may nominate, leave the number just where it is and provide that this entire increase shall be promoted from the ranks?

Mr. VARDAMAN. Mr. President, personally I do not think we need any of it. The whole scheme and plan is premature. I think this question of preparation has now become largely a fad—it has really, I am told, entered the social life of Washington. But if you are going to increase the number of cadets at West Point, I would rather have a young man come from the ranks of the Regular Army—one who was there with a serious purpose—and it would be an inducement, which the Senator from Missouri [Mr. REED] has so eloquently and clearly outlined, to these young men to do right, to live the sort of lives that would develop their minds and qualify themselves for the duties of the soldier. I have had some little experience, and I know what——

Mr. HARDING. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri [Mr. REED] has the floor. He yielded to the Senator from Ohio and then yielded to the Senator from Mississippi. Does the Senator from Missouri yield further to the Senator from Ohio?

Mr. HARDING. I thought the Senator from Mississippi had concluded his remarks.

Mr. VARDAMAN. Mr. President, I will not trespass further upon the time of the Senator from Missouri. What I was about to say is probably of no especial concern anyway.

Mr. REED. I am glad to yield to the Senator.

Mr. VARDAMAN. I appreciate the Senator's courtesy, but I will not interrupt him further at this time.

Mr. HARDING. Mr. President, I wish to say, by the courtesy of the Senator from Missouri, that I am cordially in sympathy with the suggestion he makes, and I think it ought to be practical to harmonize his idea along the lines suggested by the Senator from Georgia [Mr. SMITH]. I would very gladly surrender the nomination of cadets on the part of Members of Congress, and I am wondering if there could not be worked out a scheme, preserving the apportionment of the several States, but requiring that the nominations made by Members of the House and Senate be taken from the Army. If such an amendment could be perfected I should very cordially support it. In other words, Mr. President, if the Senator from Missouri will allow me, I should like to see a provision adopted whereby the new nominations on the part of Members of Congress shall be taken from the Regular Army on some sort of recommendation properly provided for.

Mr. HUGHES. Mr. President, it seems to me that the difficulty in a plan of that kind would be the character of the admission examinations to the Military and Naval Academies. You would find very few men in the ranks, I venture to say, who would be able to pass the examination with the marks requisite to entitle them to admission to either of the academies. Therefore a necessary supplement to any such proposition as that, it seems to me, would be a plan to afford educational facilities in the Army or the lowering of the standards of the entrance examination at both academies or the establishment of preparatory schools to which boys could be sent at an earlier age.

Mr. VARDAMAN. Mr. President, I should like to say to the Senator from New Jersey, with the consent of the Senator from Missouri, that there are a great many instances where men are commissioned now from the ranks and they have to stand quite as rigid an examination as they would if they undertook to enter West Point.

Mr. HUGHES. I am not speaking about that. That proposition is, to a greater or less extent, taking care of itself now. Any young man who is in the Army and who desires to study and prepare himself for a commission is afforded certain facilities. The number is limited, and necessarily limited, because in the very nature of things not very many men can take advantage of it.

Mr. VARDAMAN. If the amendment proposed by the Senator from Missouri should be adopted, there would be company schools or regimental schools established where young men could take a course of study, and provision should be made so that whenever the door of opportunity is open you can rely upon proficient and worthy young men entering it.

Mr. HUGHES. As I caught the suggestion of the Senator from Ohio [Mr. HARDING], it was to make the selections for admission to the academy from men now in the ranks?

Mr. REED. Mr. President, the Senator, I think, came in during the debate. The bill, in section 1, provides for doubling the number of men who are to be appointed by Senators and Representatives. It also increases the number, I think, who are to be appointed by the President. The bill, in section 2, authorizes the President to appoint to the Military Academy one cadet for each regiment, who shall qualify mentally and physically, and so forth. I simply propose to make that "five" instead of "one."

The Senator from Georgia [Mr. SMITH] and other Senators have suggested that we ought to take from the Army the whole number of additional cadets authorized by this bill. I do not know but that suggestion may have great virtue in it, but I submit that it might not work out. Is it not better now to proceed gradually? For instance, some Senator has suggested that we might not have the men who could qualify at all from the Army; that it would require the inauguration of an educational system. If that situation should eventuate, we might find ourselves confronted by a dearth of cadets.

Mr. SHEPPARD. Mr. President, will the Senator allow me to interrupt him for a moment?

Mr. REED. Let me finish this theme, and then I will be glad to yield to the Senator.

It may be that the class of young men now entering the Army could not furnish even five from each regiment who could qualify for admission to the academy. It might be, on the other hand, if we were to provide that young men could only enter the Military Academy after serving a year in the Army that all the ambitious young men who are now pestering the life out of Senators and Representatives for appointments would enter the Army and serve a year in order to get into the Military Academy.

I do not know, Mr. President, which way that might work out. It is one of those problems that it is very difficult to solve in advance. It seems to me, therefore, that the wise thing to do is to continue the system of appointment from civil life and at the same time to authorize an increase of cadets from the Army. I think five for each regiment is very moderate. Let us try it. If it works and works well, it probably will result in ultimately every cadet being taken from the Army; but is it just the wise thing to make so radical a change as is suggested and to do it all at once?

Mr. SMITH of Georgia. Mr. President, I wish to make a suggestion to the Senator, with his permission.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I do.

Mr. SMITH of Georgia. With reference to the ability of young men in the ranks to stand this examination, I wish to say that if you make the number five from each regiment, then a young man who wishes to go to West Point and who is prepared to stand the examination, if there are but few who can stand it, is so much the more encouraged to volunteer, because, perhaps, there will not be more than five in each regiment who can stand the examination, and it is an invitation to join the regiment. The less the number who can stand the examination, the greater the inducement to those who can stand it to find their road to West Point by enlistment. There will be enough enlist if this provision is adopted to fill the five places.

Mr. REED. I am inclined to think that is correct; but I do not know.

Mr. SMITH of Georgia. Mr. President——

Mr. REED. I told the Senator from Texas [Mr. SHEPPARD] that I would yield to him.

Mr. SMITH of Georgia. The Senator from Alabama [Mr. BANKHEAD] has asked me where the qualified young men would come from. I have a list of 25 young men in my own State to-day who desire to have the opportunity to go to West Point. I am sure a sufficient number of those would be willing to serve a year in the ranks as private soldiers so as to have the opportunity from their regiments to take the examination to fill these places.

Mr. REED. But the trouble is this: Under the present law they have to enlist for three years.

Mr. SMITH of Georgia. Oh, but when we come to that let us just absolutely stand against any three-year enlistment. I,

for one, can not vote for a bill that requires a three-year enlistment.

Mr. WARREN. Mr. President——

Mr. SMITH of Georgia. Let us fight for a short-time enlistment. While I am on my feet, if the Senator will pardon me, I want to say that our Committee on Military Affairs have shown more progress along these lines than ever has been shown before. They are reducing the length of enlistment. They are reaching out in the direction of encouraging the private soldier, and I believe that when they find that the Senate is ready to back them they will go still farther on the same line.

I know the spirit of the chairman of the Committee on Military Affairs. I know he wishes to go just as far in that direction as he possibly can go. I believe that when he sees that the Senate is ready to back him we will find that the chairman of the committee will be glad to lead us even farther than he has so far gone, because I know that his spirit is in favor of going just as far as possible to develop the private soldier during his service with the colors for a return to civil life.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. REED. I yielded to the Senator from Texas. He asked me to yield some time ago.

Mr. WARREN. I only wanted to ask a question now.

The PRESIDING OFFICER. To whom does the Senator yield?

Mr. REED. For a question, I yield to the Senator from Wyoming.

Mr. WARREN. I have been waiting, because I wished, in my own time, to follow the Senator's argument with a few words; but since the Senator has adopted a system of interspersing speeches of all of the other Senators, I will not interrupt him at this time; but a little later I may ask his indulgence.

Mr. REED. I was ready to sit down some time ago, but this questioning has kept me on my feet. I yield to the Senator from Texas.

Mr. SHEPPARD. I want to ask the Senator if he knows what proportion of the officers now come from the ranks?

Mr. REED. I do not know the proportion, but it is quite small.

Mr. SHEPPARD. I will ask the chairman of the Senate Committee on Military Affairs.

Mr. CHAMBERLAIN. What is the question?

Mr. SHEPPARD. What the proportion is now of officers who come from the ranks, and not from West Point?

Mr. CHAMBERLAIN. I can not say what the proportion is, but quite a number of officers are now so selected.

Mr. WARREN. More than half of the present Army officers are not graduates of West Point.

Mr. CHAMBERLAIN. They are taken both from civil life and from the Army.

Mr. SHEPPARD. I wanted to bring that out, in order to emphasize the argument of the Senator, that the men in the ranks are capable of taking the necessary examinations. I understand that at least half, or probably more than half, of the present officers of the Army have come up from the ranks or from civil life.

Mr. REED. They qualify under a special examination. They never have the advantages of West Point. This bill proposes to open the doors of West Point to the private soldier who can pass an examination. It is a different proposition, as the Senator will see, because it gives the private the opportunity to acquire the superior advantages of West Point.

Mr. President, I beg the pardon of the Senate for so long trespassing, and I think the implied rebuke of the Senator from Wyoming was well merited.

Mr. WARREN. Mr. President, I assure the Senator that I did not mean any implied rebuke. The Senator has made a very interesting speech. I agree with much he has said and with much the Senator from Georgia has said, but I do not quite agree with the proportions proposed for consideration at the present moment.

I wish to assure both the Senators, the Senator from Missouri and the Senator from Georgia, that I have always been favorable to the advancement of the private soldier. I have every reason to feel that way. I myself served through part of the period of the Civil War as a private soldier, and I know the kind of material the Army contained in the rank and file then, and I have watched it closely since. I know a great many who have been promoted from noncommissioned officers and private soldiers to commissioned officers, and I do not believe any of them suffered from social ostracism such as it has been indicated might occur. I never have heard a complaint, and ever since I left the Army I have lived near Army posts and have seen more or less of the Army and of its officers. In times of peace officers and men are doing different duties—one class commanding, the other obeying in drill work. When out in camp, in times of war or peace, there is a comradeship that denotes closest sympathy and union of purpose. Social distinctions, mentioned by the Senator from Missouri, do not spring from the thoughts or actions of commissioned officers or enlisted men. Quite the contrary. But in cities and towns society people are sometimes guilty of thoughtless snobbery.

The present law provides that, first, we commission the cadets graduated from West Point; second, we commission all the private soldiers who have applied for and received and successfully passed an examination and are fitted to become officers. That would be the law without any further amendments. Then, following them, come the honor graduates from the civilian military schools. Now, I would as soon have five from a regiment as one, if I thought we were prepared for it at the present time, and if it did not serve to cut out some of those whom we desire to encourage in other quarters, and, in fact, cut out private soldiers themselves and noncommissioned officers who are seeking to get commissions in the Army.

Mr. REED. If the Senator will pardon me, how does it cut them out?

Mr. WARREN. I will tell the Senator in a moment. The man who goes to West Point must have a college education, or very nearly that—a complete high-school or preparatory course—in order to pass the examination as per curriculum now in use.

Mr. REED. Why, Mr. President——

Mr. SMITH of Georgia. A first-class high-school education is sufficient.

Mr. WARREN. I say, or an advanced or complete high-school education.

Mr. REED. They are admitted now upon a certificate that they have passed a high-school examination.

Mr. WARREN. The Senator is mistaken about the certificate having any reference to a high-school education or a college education. It is simply that they possess the necessary knowledge, wherever they have acquired it; and as interpolated by the Senator from Georgia, high-school students do get in sometimes, but very many of them do not.

Mr. REED. Mr. President, will the Senator, on that point, permit me?

Mr. WARREN. Certainly.

Mr. REED. Either the Senator is in error or I am; but I have understood that there are at least certain high schools in this country whose diplomas—certificates of graduation—are received as the equivalent of the West Point examination——

Mr. WARREN. In what way, and where?

Mr. REED. So that they are admitted upon them. If that is not so, I have had some very bad information from Army headquarters.

Mr. CHAMBERLAIN. We have some, I will say to the Senator, from particular classes of schools, and I will give them to the Senator in the course of his argument.

Mr. WARREN. Of course I have said that the honor graduates from military schools, who have passed and received their education under the instruction of Army officers, are admitted. That is a class which I would not like to cut out. That is one of the classes which we do not want to cut out by stating that all of the West Point cadets may be selected from the ranks of the Army.

Now, we have at West Point very expensive quarters as to some of the buildings, but we have not present accommodations sufficient for so many as we would have to provide for if we should undertake to cover the ground which the Senators wish to cover; that is, five from each regiment.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Nebraska?

Mr. WARREN. I yield.

Mr. NORRIS. For information, I wish to inquire of the Senator, referring now to the bill, on page 1, line 4, where it provides "that the Corps of Cadets * * * shall hereafter consist of 2 from each congressional district, 2 from each Territory, 4 from the District of Columbia, * * * and 4 from each State at large," how many, under the present law, are there? Just half that number?

Mr. WARREN. Under the present law, it is easy to approximate it. One for each Representative and Senator is something over 500.

Mr. NORRIS. I meant, referring to the bill now, how much of an increase does the bill make?

Mr. WARREN. The bill makes an increase of one for each Representative and each Senator?

Mr. NORRIS. Then, under the present law, as I understand, there is one from each congressional district?

Mr. WARREN. Well, we double that.

Mr. NORRIS. I understand. I want to get what the facts are.

Mr. WARREN. Yes.

Mr. NORRIS. Under the present law, then, there is one from each congressional district and two from each State at large. Is that right?

Mr. WARREN. Yes; two at large from each State and one for each Representative or district.

Mr. NORRIS. The law does not provide that it shall be one for each Member and one for each Senator, does it?

Mr. WARREN. The law does not provide anything except that the President shall appoint one——

Mr. NORRIS. Yes; and this bill just doubles that?

Mr. WARREN. Yes.

Mr. NORRIS. Suppose that we adopt the amendment of the Senator from Missouri, which is one that appeals to me as being the proper thing to do. That would, as I understand the Senator from Wyoming, give such a large number of cadets that we would not have place for them or use for them. Why not leave the law as it is now, and, in line 4, page 1 of this bill, strike out "two" and insert "one," and, where it provides four at large from each State, strike out "four" and insert "two," and then adopt the amendment of the Senator from Missouri? How would that do?

Mr. WARREN. I was about to reach that point, if the Senator will permit me to go on a little.

Now, just a moment as to the two schools. We have the school at Annapolis, the terms of which I am not so familiar with, but some one will correct me if I am wrong. For a number of years there have been two for each congressional district and four for each State at large, which would be, with the present strength of Congress, something over 1,000, and then the additions of the President's appointees, and so forth. Now we have passed the third one, which carries it up to beyond 1,500. Of course the rank and file of the Navy probably will be less than half of what it will be in the Army; but they have had a system heretofore, a so-called "plucking system," by which every year they discharge enough, added to those who have resigned, to reduce the total to a certain number. We did away with that. Now, in this bill as it is presented we will have the same number as the Navy formerly had—that is, somewhere about 1,100—and then we would have appointed from these regiments at present, say, 66, and with the advanced forces which I hope to see authorized in the measure we would have probably over 100, allowing one cadet for each regiment. If we would add, say, 5 for each regiment it might reach about 330 cadets from the Army at large, and it would be about 550 under the Chamberlain bill as reported to the Senate. As to the figures given by the Senator from——

Mr. DU PONT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Delaware?

Mr. WARREN. I do; but I will get to that in a minute.

Mr. DU PONT. I was going to ask the Senator whether he refers to the present or to the future when he says 330?

Mr. WARREN. I am referring to the present Army strength, with five. Now, it would be something over 500—approximately 560, with five members, if we should pass the Chamberlain bill on Monday, which I hope we may, and that carries it up to something over 1,500.

Mr. SMITH of Georgia. Mr. President, may I ask the Senator a question?

Mr. WARREN. Just let me finish the sentence. Then we must have room to recognize not only the honor graduates from schools, but to recognize others in other schools who have military ambition. We want a citizen soldiery. I should like to see the bill go through with one or possibly two for each regiment now, with the terms as they are here; and then I should like to see, when that has been put in operation, whether we will receive readily, or will not receive, applications from the ranks to go into West Point, and how successful the applicants may prove to be; and then we may increase it if circumstances warrant. But I do not believe, because we are now moving forward, that we ought to rush away from certain standards which we must keep in sight; that is to say, to have the interest of the entire citizenship of this country in West Point and in the Army.

One moment more. As I have said before, shortages now are filled from the ranks. Many officers' sons enlist in the ranks and serve there with the purpose, after their education is acquired, of passing through the examination there. When the examination is made of the private in the ranks, there is some difference between that and the curriculum that he is met with at West Point, because he has already shown his fitness, his adaptability, and his constitutional and physical conditions; and if he falls short in some particular study, in English or something of the kind, he is allowed to go through. So we really open the door wider; we have opened it wider; we are now opening it wider to the ranks to let them go in from there without going through West Point than to confine it to West Point, and the more we put in West Point the fewer we probably will take from the ranks.

Mr. SMITH of Georgia. What I want to ask the Senator before he sits down is this: What is his objection, instead of making the increases for which we provide subject to congressional and senatorial recommendation, to providing some kind of method that would require that all of these additional appointments should go from the regiments, if there are men there of proper age, as provided by this bill, who can stand the examination, of course? I am not now suggesting exactly the way; but why not let this increase go from men who have volunteered, if they can stand the examination, instead of under the old plan?

Mr. WARREN. I will say to the Senator that I do not think we can afford to commit our whole expectations of filling West Point, and immediately commencing the education of these young men, to the readiness with which we may be able to find a sufficient number that can pass through into West Point. If they can not pass through with the present standard of examination, shall we reduce that standard or not? That has been a matter of comment and discussion for a number of years, and the decision always has been to preserve the present high grade.

I do not wish to delay the passage of the bill, so I shall yield the floor, as it is nearly 2 o'clock.

Mr. SMITH of Georgia. I should like to ask the Senator one more question. How far could we afford to go, in the Senator's opinion, beyond the one? The Senator said two. Does he not think we could at least go to three from the regiments?

Mr. WARREN. I do not. I do not believe we could do so and protect other classes that are just as valuable and just as necessary to be encouraged that they also may reach the Army.

Mr. SMITH of Georgia. Would not this help us out: Will it not be probable that all of the required number will not come by recommendations from the districts, and all of the regiments will not be able at once to furnish three who can stand the examination, and, if we took at least the three now, that there would be no burden?

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Missouri [Mr. REED].

Mr. HITCHCOCK. Mr. President, I ask the Senator whether he will accept this amendment to his amendment? Add, at the end of the paragraph:

Provided, however, That the number thus selected by the President shall not exceed 300 at any one time.

Mr. REED. I will accept the amendment.

The PRESIDING OFFICER. The question is upon the adoption of the amendment as amended. [Putting the question.] By the sound the "ayes" seem to have it.

Mr. SWANSON. I ask for a division.

There were, on a division—ayes 14, noes 14.

The PRESIDING OFFICER. The vote is a tie.

Mr. KENYON. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. BRANDEGEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fall	Lee, Md.	Smith, Ga.
Bankhead	Gallinger	Lippitt	Smoot
Beckham	Gore	McCumber	Sutherland
Brandegee	Harding	Myers	Swanson
Broussard	Hardwick	Norris	Thomas
Catron	Hitchcock	Overman	Tillman
Chamberlain	Hughes	Pittman	Townsend
Chilton	Husting	Reed	Underwood
Clapp	James	Robinson	Vardaman
Clark, Wyo.	Johnson, S. D.	Saulsbury	Wadsworth
Colt	Jones	Shafroth	Walsh
Cummins	Kenyon	Sheppard	Warren
Curtis	La Follette	Sherman	Works
du Pont	Lane	Simmons	

Mr. JONES. I desire to announce that the Senator from Vermont [Mr. PAGE] and my colleague [Mr. POINDEXTER] are necessarily absent on business of the Senate.

Mr. THOMAS. I wish to announce the necessary absence of the senior Senator from New Jersey [Mr. MARTINE]. I will let this announcement stand for the day.

Mr. ASHURST. I wish to announce that my colleague [Mr. SMITH of Arizona] is absent on official business of the Senate.

Mr. SAULSBURY. I desire to announce the necessary absence of the senior Senator from Maine [Mr. JOHNSON] on official business of the Senate.

Mr. PITTMAN. I desire to announce that the Senator from Ohio [Mr. POMERENE] is unavoidably absent and that he is paired with the Senator from Maine [Mr. BURLEIGH]. I will let this announcement stand for the day.

Mr. CHILTON. I wish to announce that my colleague [Mr. GOFF] is absent on account of illness. I wish also announce the absence of the following Senators on official business:

The Senator from Indiana [Mr. KERN], the Senator from Arizona [Mr. SMITH], the Senator from Mississippi [Mr. WILLIAMS], the Senator from New Hampshire [Mr. HOLLIS], the Senator from Maine [Mr. JOHNSON], the Senator from South Dakota [Mr. STERLING], the Senator from Kansas [Mr. THOMPSON], the Senator from Washington [Mr. POINDEXTER], and the Senator from Vermont [Mr. PAGE].

The PRESIDING OFFICER. The Chair announces that 55 Senators have answered to the roll call. A quorum is present. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Mr. MYERS. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JONES. It appears to me that the measure which has been before the Senate is likely to take all the afternoon.

Mr. CHAMBERLAIN. I hardly think it will take very much longer. It has taken two hours longer than I had any idea it would take. However, the Senator has been so kind to us in the matter, having had the right of way here, that I feel disposed to let him proceed.

Mr. JONES. I do not want to delay the measure which has been before the Senate, and I think I will not object to proceeding with it. I shall try to get recognition in my own right later.

Mr. CHAMBERLAIN. I think it will not be very long.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri [Mr. REED], as modified by the amendment of the Senator from Nebraska [Mr. HITCHCOCK].

Mr. MYERS. Mr. President, I desire to ask a question. Is there unanimous consent that the unfinished business be temporarily laid aside?

The PRESIDING OFFICER. There is.

Mr. CHAMBERLAIN. Mr. President, I did not intend to say a word about this bill, but so many Senators are now present who were not here when the subject was under discussion, I desire to express the hope that the Senate will not adopt the amendment offered by the Senator from Missouri or the amendment thereto.

This bill, Mr. President, goes further than any measure ever went to recognize the enlisted man. Not only have we done it in this bill, but we have done it in the Army reorganization plan; and, strange as it may seem, in the efforts we have made in the Army reorganization plan for recognition of the enlisted men we are getting protests from all over the country against the provision which is intended to recognize him and give him a standing in the Army as well as before the departments of the Government.

I am going to take just a minute to say to the Senate that we propose to recognize the enlisted men here to the extent of 64 men under the present organization of the Army and 136 men under the organization as it is proposed by the plan which the Senate Committee on Military Affairs has introduced.

Mr. President, if we go further than that the result will be that the efforts we are making to open the door of opportunity to the enlisted man will be closed against him, I am sure, because the bill will probably be defeated in the House of Representatives. We have attempted just as little as possible to change the present law with reference to appointments to the academy, and if we go further than we have gone I think instead of assisting the enlisted man we will really impair his opportunity.

I am in accord with the view of the Senator from Missouri. If I had my way, I would absolutely democratize not only the Military Academy at West Point but the Naval Academy as well, and not allow anyone to be admitted except young men who had served one year of enlistment. We can not do that at one fell swoop, Mr. President. We have crowded this thing as far as we could in order to admit enlisted men to the academy and as far as it was possible to do with the accommodations we have there. I hope the Senate will vote down the amendment.

Mr. SMITH of Georgia. Mr. President, as I intend to vote for the amendment offered by the Senator from Missouri, and as a number of Senators were not present when he so ably presented his views upon the subject, I wish to say just a word in explanation of the amendment.

The able chairman of the committee has stated that he would go a great deal further toward democratizing the Army if he could, but he fears that he will not succeed. I read with a great deal of interest the debate yesterday in the House upon the Army bill, and I found a great many Members of the House are earnestly in favor of making the status of the private soldier vastly better than it is to-day. I think that the chairman of the committee is unnecessarily timid about action on our part on those lines. I believe it will be received and sustained in the House. The least we can do if we believe in it is to urge it.

It is true that the bill which he has presented goes further in behalf of the private soldier than anything now in existence. The Senator says he has received protests against going so far. When the bill comes up I hope we shall hear from whom those protests come.

Mr. CHAMBERLAIN. Not on this bill.

Mr. SMITH of Georgia. No; I said against the other bill, and I said when that bill comes up I hope we will hear from whom the protests come.

Mr. CHAMBERLAIN. I do not mind telling the Senator right now. We undertook to admit enlisted men, after serving a certain number of years in the Army, to employment in the War Department and other departments here without standing a civil-service examination, and every civil-service institution in the country is opposing it.

Mr. SMITH of Georgia. I am not so much interested in that part of it. I do not think admission into the civil service is the greatest boon that can come to our average men. I am very anxious to see the Army bill, before we pass it, substantially amended. I hope we will be able to cut the enlistments down to two years and adopt the policy of admitting to the position of private soldier a man who is not to be permanently in the Army, but who enters upon the theory that he will not be there longer than two years; that he will not permanently become a part of the Military Establishment or of the official family, but that we shall endeavor to give him, while he is a private soldier, a number of hours each month of training preparatory to civil life. It is done in a number of other countries, and it is done successfully. There is no reason why we should adhere to the old plan of receiving the character of men we have been forced to receive as private soldiers.

If we will make the opportunity for a private soldier something really inviting, if we will make it a training school for two years for him, we will find that bright boys from the country, who have finished their grammar school education but have not the opportunity of a broader education, will come into the position of private soldier, serving two years, and there receiving a training in matters other than military affairs.

We ought to give the private soldiers 96 hours a month—that will be 4 hours a day—in training for civil life. We ought, if necessary, to add some civilians to the list of teachers.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. SMITH of Georgia. With pleasure.

Mr. TOWNSEND. Do I understand that this amendment proposes that the cadets appointed from the Army are to pass the same mental examination for entrance to West Point that is now required?

Mr. SMITH of Georgia. Yes.

Mr. TOWNSEND. Does the Senator believe that grammar-school students could pass that examination and enter the academy?

Mr. SMITH of Georgia. No.

Mr. TOWNSEND. I so understood the Senator.

Mr. SMITH of Georgia. Not at all. I did not say that. I did say if we gave that status to the private soldier, if we added a course of preparation for civil life to the work of the private soldier, there would be splendid young graduates all through the country who had had no opportunity beyond a grammar school who would volunteer as private soldiers to have the benefit of the two years' experience which they would receive as private soldiers, drilled in military affairs, and taught also the civil responsibility; taught also, I trust, in vocational work, as well as from the ordinary course in books, and those boys would be able to go back to their homes, and their badges as members of the national reserve for four years will be badges of honor, for they will be capable of taking leading positions at home, instead of occupying positions as retired pri-

vate soldiers, who are usually looked upon askance by nearly everybody.

The amendment offered by the Senator from Missouri is along this line. The bill as it comes to us doubles the number to be admitted to West Point. It provides that the President shall name one from each regiment to go to West Point. These would have to stand the examination to enter West Point. Of course I do not mean that the ordinary grammar-school graduate could stand the examination, but there will be boys who have finished the high school who are ambitious to go to West Point who would be willing to serve a year as a private soldier to have the opportunity to stand the examination and win a place at West Point.

There are many more boys willing to go to West Point than we can send there. I have within the past few days had to select for an examination for Annapolis, and I had over 25 for either Annapolis or West Point from my own State. Most of them could stand the examination. If you provide that five boys from each regiment may be named for West Point by the President, boys will enter the regiment who have finished high school and who can stand the examination, and it will help to elevate the standing of the private soldier. It will help to elevate the standing of the officer, because if we require our officer to recognize the private soldier with less caste and as being more his equal it will broaden the officer when he realizes that the service of the private soldier is not limited to military affairs, but that he is to carry a part of the responsibility for the civil life of the country. The greatest generals have usually been great civilians as well as technical soldiers.

I intend to vote for the amendment, and I only wished to give briefly the reasons that are moving those of us who will so vote. The Senator from Missouri accepted the amendment of the Senator from Nebraska providing that the total should in no case exceed 300 who are named by the President.

Mr. JAMES. Let me ask the Senator, Why confine the selection by the President to the Regular Army? Why discriminate against the National Guard? Why not give some of those bright young fellows this chance which the Senator so eloquently pleads shall be given to the rank and file in the Regular Army?

Mr. SMITH of Georgia. I will answer the Senator. The National Guard gets them through the nomination of Congressmen. The National Guard is at home and close to the Congressman, and whenever a particular man in the National Guard wants to take an examination he is usually the man who will be named. But the boys who enlist as privates are not so close to their Representatives and Senators. Again——

Mr. JAMES. Mr. President——

Mr. SMITH of Georgia. I have not finished my answer. I want to answer before I yield again. The boy in the National Guard is not giving 12 months of solid time to the Government; he is not becoming a member for four years of the reserve soldiery; he is contributing nothing like as much to the military preparation of the country as the boy who enlists as a private soldier in the Regular Army. I want to give the 300 appointments to that class of boys, because otherwise they would not have a chance, and because they are contributing more than the boys in the National Guard.

Mr. JAMES. But if the Senator will permit me, under the new scheme which is proposed we are going to require more service from the National Guard. They are going to do much more work; they are going to give more of their time. As to the National Guard being close to Congressmen, I doubt if the Senator can call to his mind a single member of the National Guard who has been appointed solely because be was efficient in the service as a soldier. Of course he is at home; he has friends at home, and so have those in the Regular Army friends at home. They are not as closely allied with home affairs perhaps as the members of the National Guard; but as to the National Guard, the States are depending upon the National Guard for service. It has a dual duty, first to the State and next to the Government. We are going to require the National Guardsman to give service to the Nation; and I do not see any reason why, if we are going to give these appointments to the Army in such a large degree, we should not give them to the soldiers of the State, they being a part of the soldiery of the Nation.

Mr. REED. Mr. President——

Mr. SMITH of Georgia. If the Senator from Missouri will yield to me a moment further, I wish to make this suggestion. If the Senator from Kentucky is so much interested in the National Guard at home, and will add an additional proviso that Representatives and Senators must make their nominations from the National Guard, if eligible, I will vote for it; and that will give the National Guard three times as many as I am asking for the private soldiers.

Mr. JAMES. Before the Senator leaves that, I will say that I am perfectly willing that the National Guard shall be recognized in that way. I think while we are recognizing the Army we ought to recognize also the National Guard. Why should you make one provision apply to the National Guard and another provision apply to the Army?

Mr. REED. Mr. President——

Mr. JAMES. As far as I am individually concerned, if there is any private soldier in the country who can stand the examination—mental and physical—required, I should be very glad to have him appointed, and I shall support any amendment to that effect.

Mr. REED. I should like to ask the Senator from Kentucky if his objection to the amendment is that it does not go far enough.

Mr. JAMES. No; my objection to the amendment is that you do not give to the soldiers of the State in the National Guard the same opportunity that you give to the soldiers in the Regular Army.

Mr. REED. Do I understand that the Senator's objection, then, is simply that the amendment does not go far enough and take in enough—that is, that it does not take in the National Guard along with the Army?

Mr. JAMES. Let me say to the Senator, I believe it would be much better if you did include the National Guard, because I seriously doubt whether under the requirements existing now as to the mental examination, you can find five enlisted men in a Regular Army regiment who could stand that awfully hard mental test, I think too hard, upon those who seek admission into the Military Academy. But if you enlarge it and provide that they may be taken also from the National Guard it would be easier for the President to find those necessary to make up the required number.

Mr. WARREN. Whenever there is a private in the ranks who has sufficient education to enter West Point, the way is open to him now after two years' service. In two years he can be commissioned an officer from the ranks, whereas it takes four years for the course at West Point.

Mr. JAMES. He has a better advantage. That is an additional argument why the National Guard should be included.

Mr. REED. If the Senator will pardon me he either argues too much or too little. Is it an advantage to go through West Point? If it is, it is proposed to extend that advantage to one man in each regiment. I have ventured to suggest that instead of giving the opportunity to one in a thousand we give it to about one in two hundred. It is true that men can now go into the Army and pass an examination and serve a certain length of time and get a commission. If all they want is the commission, of course that answers the question. That seems to be the attitude of the Senator from Wyoming, I, however, contend that it will be very much better for the country if the men are given the right to be examined and get a commission without going through West Point if they desire to take that course, and that they also be given the opportunity to be examined and get a commission by going through West Point, thus gaining the additional benefit of a West Point education, which is a very great advantage.

The question of extending the act to the National Guard and a lot of propositions are brought forward. The bill is here. I did not draw it. It simply proposes that one man from each regiment shall be given the opportunity to go through West Point. I moved to make it five and the Senator from Nebraska by an amendment to mine puts the total limit at 300. I ventured to advance the argument that if we offer the opportunity to more men in the ranks to enter West Point, we thereby hang that many more prizes before the eyes of the boys in the Army and that two results will happen. First, more men will enter the Army in the hope of getting to West Point through that means; and, second, the ambition not only of the five men who get in will be aroused but a large number who may not succeed in passing the competitive examination will improve their knowledge.

I want to do something for the private soldier, so that we shall get a better class of men, so that we can get our Army filled up quickly when it is necessary to have men to meet an emergency. The truth is the Government has been obliged to spend hundreds of thousands of dollars to induce men to enlist. It has established numerous recruiting stations and advertised extensively, and yet the Army has been short of men. If we will but afford some reasonable chance for a young man who enlists to obtain a thorough education at West Point, then I think we will get many young men of superior character who

will not now enter the Army. There are 40 or 50 applications for appointment to West Point at this moment on my desk. I would be glad to be able to say to those young gentlemen, "Go into the Army and if after a year you can pass an examination you can get in yourselves." I think this is a very important question that we are discussing.

I am surprised that the chairman of the committee takes the position that there have been protests against changing the present law touching the present question. I venture to say there is not a protest that has ever been made or will ever be made against giving an opportunity to a boy who enters the Army and who serves a year to take an examination for West Point, except the protest comes from some Regular Army officer. Regular Army officers have never liked the idea of the opportunity being given to an enlisted men to rank with them. I do not say so out of a desire to criticize our Army officers; they simply follow the traditions of their craft. It is a part of the system that I discussed at some length a while ago.

Mr. JAMES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kentucky?

Mr. REED. I do.

Mr. JAMES. Will the Senator accept this amendment, "providing that the President shall be authorized to appoint cadets to the United States Military Academy from among the enlisted men of the Regular Army and the National Guard of the States"?

Mr. REED. Does that fit into the language of the bill? The amendment calls for men who have served not less than one year.

Mr. JAMES. I understand that.

Mr. REED. A member of the National Guard has not served in the same sense that the enlisted man has served. The enlisted man has given all his time. The National Guardsman can give only a part of his time.

Mr. LEE of Maryland rose.

Mr. REED. Does the Senator wish to ask me a question?

Mr. LEE of Maryland. The enlisted man in the National Guard enlists in the same way. I had proposed to offer that very amendment. I think it an admirable amendment.

Mr. JAMES. I understand the Senator will accept the amendment?

Mr. REED. I would be glad to accept it if I did not think it would jeopardize the amendment. I will vote for it if the Senator will offer it as an independent amendment. I shall be glad to support it.

Mr. JAMES. I offer as an amendment to the amendment, after the word "Army," in line 8, page 2, the words "or the National Guard of the States."

Mr. LEE of Maryland. Permit me to suggest to insert also those words after the word "Army," in line 12.

Mr. JAMES. That is right. The words should also come in after the word "Army" in line 12.

The PRESIDING OFFICER. The Secretary will read the amendment and the amendment to the amendment.

The SECRETARY. The Senator from Missouri [Mr. REED] offers the following amendment: On page 2, line 14, before the words "for each regiment of the mobile army," to strike out the word "one" and to insert "five"; also, in line 17, after the word "hereafter," to strike out "one representative" and to insert the words "five representatives."

To that the Senator from Nebraska [Mr. HITCHCOCK] has proposed an amendment to add, at the end of section 2, the following proviso:

Provided, however, That the number of cadets at West Point thus selected by the President from enlisted men in the Army shall not at any one time exceed 300.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Nebraska to the amendment of the Senator from Missouri.

Mr. REED. The amendment of the Senator from Nebraska was accepted.

The PRESIDING OFFICER. The Senator from Missouri accepts the amendment.

Mr. JAMES. What amendment is that?

The PRESIDING OFFICER. The amendment offered by the Senator from Nebraska [Mr. HITCHCOCK] to the amendment of the Senator from Missouri.

Mr. REED. Mr. President, that amendment was accepted.

The PRESIDING OFFICER. There seems to be some objection.

Mr. REED. Mr. President, there was not any objection. The amendment was accepted long ago and passed over.

Mr. SMOOT. As I heard the amendment read, it contained the phrase "cadets at West Point." It seems to me, in order to conform with the bill, the language should be "the United States Military Academy." I simply suggest that to the Senator from Nebraska.

The PRESIDING OFFICER. The Chair now understands that the Senator from Missouri [Mr. REED] accepted the amendment proposed by the Senator from Nebraska as a part of his amendment.

Mr. REED. I did so long ago.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Missouri as modified by the Senator from Nebraska.

Mr. SMITH of Georgia. I suggest that the amendment suggested by the Senator from Utah [Mr. SMOOT] ought to be agreed to. The substitution of the words "United States Military Academy" for "West Point" should be made to conform to the remainder of the bill.

The PRESIDING OFFICER. Without objection, that will be done. The question is on the adoption of the amendment offered by the Senator from Missouri as modified.

Mr. CUMMINS. I should like to hear the amendment reported as it now stands.

The PRESIDING OFFICER. The Secretary will now read the amendment as modified.

The SECRETARY. The amendment of Mr. REED as modified is as follows: On page 2, line 14, to strike out "one" and to insert "five"; in line 17, to strike out "one representative" and to insert the words "five representatives"; and at the end of the section to insert the following: "*Provided, however,* That the number of cadets at the United States Military Academy thus selected by the President from enlisted men in the Army shall not at any one time exceed 300," so that if amended it will read:

At the rate of five for each regiment of the mobile army and equivalent units of organization of other arms, and the Corps of Cadets is hereby increased to the number necessary to provide for maintaining hereafter five representatives of each organization as herein prescribed: *Provided, however,* That the number of cadets at the United States Military Academy thus selected by the President from enlisted men in the Army shall not at any one time exceed 300.

The PRESIDING OFFICER. To that amendment the Senator from Kentucky offers the following amendment.

Mr. JAMES. I do not know whether or not I have before me the proper print of the bill, but in section 2, on page 2, line 10, after the word "Army," I move to insert "or the National Guard of the States."

The PRESIDING OFFICER. Does the Senator from Kentucky offer that as an amendment to the bill or as an amendment to the amendment of the Senator from Missouri [Mr. REED]?

Mr. JAMES. I offer it as an amendment to the amendment offered by the Senator from Missouri. I wish to amend also on line 12 of the same section——

The PRESIDING OFFICER. Ought that not properly to come in as an amendment to the bill, rather than as an amendment to the amendment of the Senator from Missouri?

Mr. JAMES. I am perfectly willing to offer the amendment which I have proposed in either way.

The PRESIDING OFFICER. The Chair thinks it should be offered as a separate amendment, because it does not at all amend the amendment proposed by the Senator from Missouri.

Mr. WADSWORTH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from New York?

Mr. JAMES. I yield to the Senator from New York.

Mr. WADSWORTH. I suggest to the Senator from Kentucky that the amendment which he proposes to offer had better be offered as a separate amendment, because some of us, I am quite sure, would be willing to vote for his amendment who would not be willing to vote for the other amendment.

Mr. JAMES. Then, I will withhold the amendment for the present.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Missouri [Mr. REED] as modified.

Mr. CUMMINS. Mr. President, I do not feel inclined to support the amendment offered by the Senator from Missouri; and inasmuch as my interest in the enlisted man is, I think, as great as that of any other Senator, I must state very briefly why I can not support it. I do not believe that it is the way in which to promote the interest of the enlisted men. If I could change the bill to suit my view of the matter, I would decrease rather than increase the number of cadets at West Point. I would do it in order to give a better opportunity for promotion from the ranks to the class of officers in the Regular Army. There are but few enlisted men who could take advantage of the opportunity to enter West Point, but there are a

great many enlisted men who, through study and experience, are competent to command; and, I think, there ought to be by far a larger proportion of the officers of the Regular Army taken by promotion from the ranks than we now find.

When we come to consider the bill providing for the reorganization of the Army, I intend to do what I can do to make it easier for the enlisted man to receive an examination and a commission for command in the Regular Army.

Mr. REED rose.

Mr. CUMMINS. Just a moment. As the law now is, the graduates from West Point have the first right; and it so happens, through the influence of men high in office in the country, that many civilians are taken for examination and for commission as second lieutenants, and comparatively few enlisted men are so examined and so promoted.

I believe that as good an officer as can be found will often be discovered in the ranks of the enlisted men; and if we enlarge, as we propose to do—I do not intend to object to it as it was originally brought in—but if we keep on enlarging the number of men who are graduated from year to year at West Point, we will make it substantially impossible for enlisted men to be promoted from the ranks to commissioned officers.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I yield to the Senator from Missouri.

Mr. REED. The Senator from Iowa wants to give the enlisted man a chance to become an officer. There is a way provided now by which he can pass an examination, and thus get a commission. This bill proposes, in addition to that right, to allow one man to have the privilege of going through West Point. It does not take away the enlisted man's opportunities, but it affords him two roads, instead of one. My amendment is to offer that opportunity to five men, instead of to one man for each thousand, or substantially for each thousand. Now, how can the Senator from Iowa say that that is taking away the opportunity from the enlisted man, when it is simply giving him an additional opportunity?

Mr. CUMMINS. Mr. President, I know very well that the Senator from Missouri has nothing but the good of the enlisted man, as well as the good of the country, at heart; but it must be obvious to him that when he is opening one door he is at the same time closing the other. As I said a moment ago, the men who are commissioned as second lieutenants when they graduate from the academy at West Point have the first right to command in the Regular Army. I believe that is right, for, other things being equal, the chances are they are more competent. But it must be apparent that if we graduate from West Point a number of officers sufficient to supply all the places for command there will be no opportunity whatever for the enlisted men to be promoted through the ranks of noncommissioned officers and finally to reach the rank of commissioned officers.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I yield.

Mr. REED. The Senator says that the West Pointer gets the preference, and thus crowds out the enlisted man. Now, I am offering to allow the enlisted man to get that preference by allowing him to go to West Point. The Senator certainly does not think that it is a detriment to the enlisted man if we shall give him the opportunity to go through West Point, for the Senator says West Point makes a superior man of him as a military man.

Mr. CUMMINS. Mr. President, I recognize that it gives five men in a regiment the opportunity to be examined for appointment to West Point, limited by the provision offered by the Senator from Nebraska [Mr. HITCHCOCK]; but the Senator from Missouri must recognize the difference between promotion for excellence as a soldier, as well as reasonable competency in the technical knowledge of military affairs, and the requirements for entrance to West Point. A man must be right from school, with all his learning at hand, in order to be admitted to West Point. I have the gravest doubt whether half of the officers who are now enjoying the rank of captain could undergo the examination that would admit them to West Point, simply because they in their practical affairs have forgotten the things that one must know in order to be admitted to the school.

I remember very well when I was governor of Iowa, a committee appointed to examine certain applicants for the bar came into my office. It happened that the committee showed me the list of questions which they were about to propound to the young men who were ambitious to be admitted to the bar. I looked the list over, and I recall very well what I said to the members of the committee. It was: "It is very fortunate for you that you are already at the bar, because there is not one of you who could successfully pass the examination that you are now about to impose on these young men." Just so it is with all men when they pass the period of preparation and training and enter the actual affairs of life.

I think that the enlisted men ought to furnish a greater number of the officers of the Regular Army. We can not bring about any such reform or change as that immediately, but that ought to be the ultimate purpose of Congress in endeavoring to enlarge or reorganize our Regular Army. The mere fact that five men or boys from each regiment will have an opportunity to be named by the President as candidates for West Point will not furnish the motive which I think ought to be given to all the enlisted men; and because I believe there ought to be a readjustment of the rights of the enlisted men in that particular, so that they can rise from the ranks, not because they are great scholars, but because they are good soldiers, I am not willing to further close the door of opportunity by enlarging the number of graduates from West Point.

May I say again there seems to be a feeling that the school at West Point should be regarded as a general training institution for civil life. I do not think so, and I intend to offer an amendment to this bill before it shall have passed the Senate which will prevent resignations, save for two reasons. When an officer is educated at the expense of the Government, having dedicated in a sense his life to the service of his country, and when the Government undertakes to compensate him throughout his entire life for that service, he ought not to abandon the service because civil life is more alluring or more profitable. There are schools in which men can be educated for the industrial affairs of the country. He ought to be permitted to resign, if once he has received his commission, only for one of two reasons: First, that he has become mentally or physically incapacitated to discharge the duties of an officer of his rank, and, second, that there are more officers in his rank than are required for the service of the Army.

I want, by proper and fair limitation upon the number of cadets at West Point, to give the utmost opportunity for the recognition of good service in the ranks, the utmost opportunity for that reward which comes after good service, namely, promotion to a higher place in the Army.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Missouri [Mr. REED] as modified.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. The Senator from Washington.

Mr. JONES. Mr. President, I am convinced that I was right awhile ago when I said that I thought this bill would not be disposed of to-day, or at least not until the greater part of the afternoon had passed, and I think that I shall now claim the floor.

Mr. BANKHEAD. Mr. President, will the Senator yield to me to ask the chairman of the Committee on Military Affairs a question?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Alabama?

Mr. JONES. I yield to the Senator for the purpose of asking a question.

Mr. BANKHEAD. Mr. President, I should like to have the attention of the chairman of the Committee on Military Affairs for a moment. I confess I do not quite understand this question and I do not quite understand the provisions of this bill and what their effect is to be. I want to ask the chairman if it is not true that a man must be 21 years of age before he can enlist in the Army, unless he has the written consent of his parents?

Mr. CHAMBERLAIN. That is correct, I will say to the Senator.

Mr. BANKHEAD. Then, I want to inquire if 22 is not the age limit for admission to West Point?

Mr. CHAMBERLAIN. Yes, sir.

Mr. BANKHEAD. Now, the question I want to ask the chairman of the committee is this: If a man must be 21 years old before he can enlist, if he can not go to West Point after he is 22 and must serve in the Army a year before he can go to West Point, how many enlisted men does the Senator think would get to West Point under the provisions of this bill?

Mr. CHAMBERLAIN. Mr. President——

Mr. JONES. Mr. President, I did not yield for a discussion of the matter; I merely yielded for a question.

Mr. REED. I suggest to the Senator from Washington that he let the Senator from Oregon clear that matter up.

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Oregon?

Mr. JONES. Yes.

Mr. CHAMBERLAIN. I will answer in just a word. Most of the enlisted men in the Army now are under the age of 22. They have gone into the Army with the consent of their parents. It is the purpose of this bill to admit to the Military Academy that class of young men who have been willing to go into the Army under 21 years of age with the consent of their parents.

PROHIBITION IN THE DISTRICT OF COLUMBIA.

Mr. JONES. Mr. President, I would not do anything to delay the pending bill, but I feel satisfied that, after this amendment is disposed of, if it ever is disposed of, there will be other amendments presented which will create discussion, and so I think I shall proceed with what I wanted to say about a matter which is of very much interest to the people of the District of Columbia, and concerning which meetings are being held almost every night. Were it not for this situation, I would not take the time of the Senate to discuss it; and I will say to Senators who are here that I shall probably occupy about an hour, possibly longer, and after that they may come back and we can pass the pending bill.

Mr. President, Congress is now confronted with the question of prohibition for the District of Columbia. In my judgment, this would not have been presented so seriously except for the influence of the liquor traffic in practically nullifying the Jones-Works excise law passed a couple of years ago for the better regulation of this traffic in the District.

The law was a model regulatory measure, and if properly administered would have been abreast of the general public sentiment in the District. It provided for an excise board to be appointed by the President in the hope that, realizing the great moral interest over which such a board would exercise control, he would select men who would enforce the plain provisions of the law and wisely and justly use the discretion vested in them to conserve the public welfare from the baneful effects of a traffic from which no good comes to anyone.

It was hoped that political influences would not control in the selection of these men, and that special consideration would be given to their selection, with the sole purpose that the law should be fairly and impartially enforced.

MALADMINISTRATION OF JONES-WORKS LAW.

Three men have been appointed, who so maladministered the law as to lead to an investigation last Congress by a special committee of the Senate, which made a unanimous report on the part of those Members who took part in the investigation. The committee found nothing to commend in the administration of the law by the excise board, but it did find that the law had been nullified in its plain provisions in the interest of the saloons, and that in the exercise of its discretion the board had always favored the saloons and had resolved every doubtful question in their favor.

It found that the plain provisions of the law prohibiting the issuance of a license to a hotel with less than 50 bedrooms had been evaded and violated by the granting of hotel licenses under the name of restaurants; that the plain provision of the law prohibiting a license for a barroom on any side of a street with less than 50 per cent of its frontage used for business purposes other than saloons had been violated, and that the board, in order to favor the granting of saloon licenses, provided in its rules that this positive restriction in the law should not apply to hotels and clubs; that the board by the adoption of a rule unauthorized by the law had permitted minors to enter stores where intoxicating liquors are sold contrary to the positive provisions of the law; that while the law requires every barroom to be closed between the hours of 1 o'clock a. m. and 7 o'clock a. m. and on Sundays, the board by rule permits the saloons to be opened from 6.45 a. m. and on Sunday between the hours of 10 a. m. and 12 noon under the excuse of cleaning up; that the board by rule authorized receivers, trustees, and other representatives of licensees to conduct the business of the licensee for a period of 60 days from his death without any authority of law for so doing; that while the law placed the maximum number of barroom licenses at 300, the board had not exercised its discretion for a smaller number, but that the testimony showed it to be the opinion of the board that it should keep the number at 300; that while the law expressly prohibits the establishment of more than one bar under a license, the board had permitted the violation of this provision in at least two instances; that while the law provides that no more than one entrance should be permitted from the street to a barroom unless the board shall specially permit an extra entrance, out of 39 applications for extra entrances 38 were granted; that while the law expressly provides that no license shall be granted west of the western line of the fire limits "as now established," meaning at the time of the passage of the act, the board licensed two saloons which were beyond the line when the law passed but which were included by a subsequent change of the line made before the law took effect, and evidently for the express purpose of defeating the law, which facts and conditions were brought to the attention of the board before it granted the licenses.

I might add here, Mr. President, that this matter finally reached the courts, and the court of appeals have affirmed the decision of the lower court holding that the granting of these licenses was illegal. The committee found further that, while the law expressly provides that no more than three saloons shall be permitted on one side of a block, the board has permitted four saloons on one side of one of the principal business blocks of the city; that while the law prohibits the location of a barroom within 300 feet of an alleyway occupied for residences except upon unanimous vote of all three members of the board, the board granted licenses in practically every instance where applied for within 300 feet of these places, and in some instances permitted three or more barrooms to be located within 300 feet of an alley; that while the law prohibits the location of a place where liquor is sold at retail or wholesale within 400 feet of a schoolhouse or a house of religious worship, measured between the nearest entrances by the shortest course of travel, the board has adopted a system of measurement by the longest usual course of travel, so that in many cases where the shortest course of travel which pedestrians would naturally and conveniently take would prevent the granting of licenses, the board has resorted to square-corner measurement so as to permit the saloons to operate, but worse than all that, the committee found that the board had permitted plain attempts to evade the law by the construction of parkings and other obstructions for the evident purpose of making the distance greater than 400 feet; that wherever a building is not used exclusively for religious purposes, the board held that it is not a place of religious worship or school within the meaning of the law, as in several instances the board granted licenses within 400 feet of a building where large schools are conducted and large congregations carry on religious worship; that while the law prohibited the granting of a license to a hotel the character of which or the character of the proprietor of which is shown to be objectionable to the board, the board granted a license to the proprietor of the Grand Hotel, notwithstanding he had been convicted of selling liquor to a minor girl and that his license had formerly been canceled, and that he had organized a corporation which he controlled, in whose name he was applying for a license, and that a strong report was made against him by the police, and that other hotels which had been conducted in a disreputable manner were granted licenses; that the board had refused licenses to properly conducted barrooms and had granted licenses to disreputable places in the same neighborhood over strong protests; that while the law provides for the transfer of licenses of deceased licensees by their personal representatives, the board permitted the widow of a licensee to operate a barroom long after her husband's death, although the corporation counsel had given it as his opinion that the bar was being operated contrary to law, and that the board did not stop such violation until pressure was brought to bear upon them through one of the District Commissioners; that the provision of the law requiring the interior of a barroom when selling is prohibited to be exposed to full view from the street is almost wholly disregarded; that plain violations of the provision of the law requiring 50 per cent of the frontage of a block to be used for business purposes before a license can be granted have been permitted by allowing saloon entrances to be changed from one side of a square to another without any change in the saloon itself, and in some cases by a mere change in the number without changing even the entrance, and that in some cases, where it is plainly apparent that buildings of a very unsubstantial character were constructed for the sole purpose of making business frontage in order to secure saloon license, the board has approved such action by granting the license; that in the case of the Hotel Thyson, which is located just across P Street from the Polk School, while it was apparent that additional rooms were constructed in an attempt to technically comply with the law, the board, notwithstanding such plain purpose to evade the law and notwithstanding the fact that it was just across the street from a public school, granted the license; and that the board in the exercise of its discretion granted licenses to at least four saloons within from 403 to 436 feet of the Polk School and the McKinley Manual Training School, attended by hundreds of boys and girls of the city. That in practically every case where the board issued a license under circumstances that constituted a violation or evasion of the true purpose and spirit of the law, all phases of the situation were brought to its attention before the issuance of the licenses, and the special Senate investigating committee closed its report with this language:

The committee believes, however, that a careful and dispassionate review of the evidence before us as to the conduct of the board in the

administration of the excise law shows that it has disregarded the underlying purpose of the law, that it has nullified its most beneficial features, and that it has encouraged and approved plain evasions and perversions of the law. It is the judgment of the committee that the board has resolved practically every doubt as to law or fact in the interest of saloons. It has shown no proper comprehension of its duties in the execution of a law framed in the interest of morality and good government. The policy of the board in fostering the liquor traffic to the fullest extent permitted by the law, and in many instances at the expense of both its spirit and its letter, is fraught with increasing danger to the health, peace, and morals of the people of the District of Columbia.

Notwithstanding this report, the President of the United States reappointed Mr. Robert G. Smith president of the board when his term expired. There is nothing in any of the hearings showing that Mr. Smith ever opposed any action taken by the board, and he himself states that he never opposed the granting of any license which was granted. His nomination has been reported adversely to the Senate, and the people of the country will watch with much interest to see whether or not the Senate of the United States will approve the reappointment of a man who has so signally failed to respect the law and safeguard the welfare of the people. The issue involved is a higher one than that of prohibition itself. The real issue is whether laws passed by Congress shall be executed or not.

If the liquor traffic had been willing to accept a fair and reasonable interpretation and enforcement of the excise law, they might not now be confronted with a serious attempt to secure prohibition for the District of Columbia. They were not. By methods known only to them they have shown friends of regulation that regulation is a failure and that prohibition is the only way to deal with a traffic which evades, nullifies, and defies the law, and for which no one has a good word.

The Senator from Texas [Mr. SHEPPARD] early in this session introduced a prohibition measure for the District. It has been reported to the Senate without recommendation. It is no secret that the committee was equally divided upon the general issue of prohibition and so the question has been submitted to the Senate for its decision.

LIQUOR FORCES NOT MEETING ISSUE SQUARELY.

What is now proposed? Is it proposed to meet the issue squarely? No. The liquor interests will never meet an issue squarely unless they think they can win. They doubt their ability to defeat prohibition in the Senate, and so they seek to divide their enemies. They hope to avail themselves of the votes of those who, if forced to vote squarely upon the issue, would be against them. They submit another proposition. What is it? A referendum to the people of the District of Columbia. Since when have the liquor interests favored the referendum? The real enemies of prohibition are not in favor of the referendum as a general principle. They are for it in the District of Columbia now simply because they think they have a better chance to win that way than in any other way. They never have been, they never are, and they never will be in favor of the referendum, except when they think they will be the gainers by it. I do not blame them. That is natural. They are selfish, like the rest of us. They are looking after their own interests; but it should cause every friend of prohibition to hesitate before joining forces with them simply because the principle of a referendum is involved. Every opponent of prohibition is now for a referendum in the District of Columbia. Possibly some friends of prohibition may now be for a referendum, and it is because they hope to avail themselves of this aid that the liquor interests are for it. A referendum in the District of Columbia is especially favorable to the liquor interest. There is a large class which is most susceptible to the influence and methods of the traffic and those who look after its interest. The great mass of people here has had but little, if any, experience in voting. There is no machinery in the District of Columbia for such an election. There are no safeguards against fraud, intimidation, and corruption, and there are forty or fifty thousand of the best citizens of the District who, if they voted at such a referendum election, will run the risk of disfranchising themselves at their legal residence in the States from which they came. It is no wonder that the interest, which is fighting with its back to the wall, should welcome any method that may bring delay and possibly salvation for it.

The friends of the referendum principle should consider thoughtfully whether they want the principle used under such unfavorable conditions, as well as for such a purpose.

The elections laws of to-day are an evolution based upon the experience of years. Many explicit and stringent provisions have been found necessary to prevent fraud upon the part of the voters and by election officials. Severe penalties have been provided against fraud and corruption, and the strongest safeguards made to secure secrecy of the ballot and to protect the voter in the exercise of his franchise privilege. Practically no discretion has been left to election officials and their course has been mapped out in great detail. This has been found to be necessary in the conduct of ordinary elections, and how much more so is this necessary in an election of this character? The issue is of such tremendous import in every respect that every possible safeguard against fraud and corruption should be specifically provided for in any law calling for an expression of opinion by the citizens of any political unit.

In behalf of the continuation of this traffic will be marshaled all that is vicious, vile, corrupt, and intimidating, together with some that is honest, moral, and respectable. Coercion will be practiced through great and powerful influences. Past masters of trickery, bribery, and corruption from every quarter of the United States will marshal themselves about the National Capital like vultures about a dead carcass. Such a corruption fund will be used here as the wildest cupidity never dreamed of, and the National Capital will be made a stench to all decent people. Everybody knows that this but fairly expresses what will actually take place upon a referendum of this issue in the District of Columbia.

Mr. KENYON. Mr. President, I should like to ask the Senator if an amendment proposing this referendum has been introduced?

Mr. JONES. Yes. I will come to that in just a moment.

Mr. KENYON. Does it cover the equal-suffrage proposition?

Mr. JONES. No; it provides for a very unequal suffrage.

In the States, with all the up-to-date safeguards thrown around these referendum elections on the liquor question, and with a standard of integrity in their citizenship which will average that in the District, corruption and bribery have been in evidence, and it has been charged that the public will has been defeated by the corrupt use of money.

CORRUPTION IN ELECTIONS.

In the Texas election, involving this question, vast sums of money were used. More than a year after the election, when the attorney general seized the books and files of one brewery, it disclosed the fact that fabulous sums of money were spent in the election. In the letter files were found letters signed by Adolphus Busch, of St. Louis, showing still further the vast sums of money used in these contests. Here are two illuminating excerpts from them:

It may cost us millions and even more, but what of it if thereby we elevate our position?

I will not mind to give one hundred thousand extra if necessary.

I mean to say by the above that everyone interested in the business should be willing to sacrifice all and everything he possesses to save our business from being ruined by a fanatical part of the people. Besides losing our business by State-wide prohibition, we would lose our honor and standing of ourselves and families, and rather than lose that we should risk the majority of our fortunes.

With all sincerity, your friend,

ADOLPHUS BUSCH.

At Terre Haute, Ind., the corrupt use of money in elections involving the liquor traffic and officers who deal with the liquor traffic is a matter of common knowledge throughout the Nation.

Sixteen guilty parties have been sent to jail or the penitentiary, and the mayor of the city has four years more of sentence before the expiration of his time.

The investigation now on at Pittsburgh, according to newspaper reports, shows a system of collecting funds for controlling elections in that one State that runs into the millions. The secretary of the United States Brewers' Association, Mr. Hugh P. Fox, when called upon to testify concerning these assessments or contributions, refused to do so, and was committed to jail therefor.

As a sample of what may be expected at the election, the liquor interests, I am reliably informed, are applying here methods of intimidation and threatened boycott.

They have for weeks been circulating petitions favoring a referendum on prohibition for the District and opposing prohibition by direct action of Congress. They have been urged upon the business men of the city, and in many instances it was sought to coerce men who favor prohibition and who see in the referendum agitation a means of delay, into signing the petition. Threats of the boycott were uttered and in some instances applied. Can it be imagined that this attempt at coercion was in the interest of suffrage for the District? No; rather it was the pursuit of a policy, long since adopted by the liquor crowd everywhere, to frighten and intimidate those who can not be reached by other means. This policy is well understood, and its application in the District of Columbia causes no surprise.

Here as elsewhere all men can not be intimidated. There are among the business men of this city many strong men who will not bend to the will of the proliquor power.

A prominent insurance agent, who is in favor of prohibition for the District, but who is opposed to submitting the question to a referendum under the circumstances, has been approached by holders of policies in his company with the threat that unless he line up with the "wets" by signing in favor of a referen-

dum, business would be taken away from his company. This business man was not frightened and refused the demands and defied the threats. But no policy has as yet been canceled.

A prominent real estate company was approached by a saloon keeper for the signature of the president to a referendum petition. The signature was refused. The company was collecting some rents for the saloon keeper, who remarked upon leaving that he would have to give his business to some friend of the liquor business.

Another instance: The president of one of the largest national banks of the city was waited upon at his bank and asked to sign the referendum petition. Being a prohibitionist and regarding the proposed referendum as an antiprohibition device, he refused. The caller, who was a depositor in the bank, immediately withdrew his account, amounting to $6,000, as a rebuke to the president. The next day, for the same reason, another depositor withdrew his account of $7,000. The board of directors, learning of the withdrawals, were, it is said, somewhat concerned. There was a meeting of the board, and while the matter was under discussion a gentleman called at the bank and asked for the president, who left the meeting to meet his visitor. The president was asked if it were true that he had refused to sign a petition for a referendum on prohibition for the District, giving as a reason that he favors prohibition for the District. The president said that he had refused to sign such petition for the reason given. The caller said he was glad to know it was true, and in order to show how glad he was he asked the privilege of opening an account at the bank, and thereupon made an initial deposit of $60,000.

PROPOSED REFERENDUM AMENDMENT A MERE MAKESHIFT.

If we are to have a referendum election, it is the duty of every Senator to see to it that the law referring this issue shall provide every safeguard that experience shows to be necessary to prevent corruption and secure an honest expression of the people's will. The liquor interests proper do not want this, but those who sincerely want the issue settled in this way and who are in favor of honest elections will surely unite in seeing that the best possible referendum law will be framed under which to hold such an election. The amendment proposed by the Senator from Alabama [Mr. UNDERWOOD] is a mere makeshift, not intended by him to be such, but that is, in my judgment, the effect of the amendment—hardly an outline of what should be in an election law, and does not manifest any desire to protect the people from the baneful influences of the traffic whose existence is at stake. If it were framed by the liquor people themselves it could not better serve their purpose. Let us take it up, section by section, and note briefly what it provides and what it does not provide:

Section 1: Only male taxpayers can sign the petition for an election.

Why have a referendum on a petition of taxpayers only? If taxpaying is to determine the qualifications of signers of petitions for a referendum, why not permit women taxpayers to sign? Their taxes are just the same as those of men. It is just as much a hardship on them to pay taxes as it is for the men and their qualifications to pay taxes must be the same. So, why restrict the signing of petitions to taxpayers or to male taxpayers? In all State referendums the petitioners are qualified voters. Why not so provide here? How are the commissioners to determine that the signers are duly qualified and that there is the required number? No way is provided for determining this. There is nothing to prevent fraudulent signatures and no way to determine whether the signatures are genuine or not. If an election is determined upon the petition, it must be held within 40 days from the date of the order for an election. Forty days is too short a time to prepare for such an election and to conduct a campaign upon such an issue. This time is not sufficient for dividing a city of 350,000 people into proper voting precincts, arranging for voting places, providing ballots, registering of voters, purging lists of those illegally registered, and all the election machinery necessary to conduct such an election. The commissioners, however, may fix the time as short as 20 days or 25 days. There should be no discretion left to the commissioners. The Congress should fix that, and for the first election the time should be much longer than 40 days.

Section 2: Only male residents over 21 years of age who have lived in the district and precinct more than a year prior to the date of holding election are to be permitted to vote.

How shall they establish their age? How establish the length of their residence? The bill provides no way whatever. No oath of any kind or at any time is required. No one is authorized to administer oaths in connection with registration or in connection with voting. No provision is made for disproving any assertion as to age or residence.

Under this provision every bum, boozer, pimp, gambler, and loafer of Baltimore, Philadelphia, and New York could be brought here and voted without fear of punishment—and they would be voted. The managers of the election are made the sole judges of the qualifications of the voters. This is unheard of in connection with elections of any character. It would make the election a farce. Disputes would soon arise over the qualifications of the voters, premeditated or otherwise. Votes could be rejected at will by the managers without fear of punishment. It should be needless to point out to the Members of this body the danger of placing such power as this in the hands of the managers. Provision is always made for challenging and swearing in votes, leaving the legality to be determined afterwards by a competent tribunal. There is no provision of this kind anywhere in the amendment proposed by the junior Senator from Alabama. If the judges knew how a man would vote, they could reject him, and their decision could not be questioned. Hired challengers could easily be secured, and with subservient managers the will of any precinct can be thwarted without fear of punishment. Such loose legislation should not be considered for a minute.

Section 3: Notice of the election shall be given by publication for 20 days in some newspaper in the District.

Does this mean in a daily paper? It does not say. Must it be every day for 20 days? Would it permit publication in an obscure weekly newspaper over a period of 20 days, possibly some paper just established to serve that purpose? What shall the notice contain? No requirement in the law except that an election is to be held and describing the boundaries of the voting districts and voting places. Nothing is said of the hour of opening the polls or closing them or as to the question to be voted upon. No provision is made anywhere in the act determining the hours of voting. Most election laws provide for the closing of business, and especially of saloons, upon election days. Nothing in this proposed amendment does so. No provision insures the opening of polls at a time when thousands in the District can vote. This leaves an open door for corruption and intimidation without any means of punishing either. If an election of this importance is to be held, provision should be made so as to insure to the people of the District an opportunity to vote at a time outside of business hours, and the saloons should certainly be closed for some hours before the opening of the polls and until after the polls have closed.

Section 4: The commissioners are to appoint three managers, two clerks, and one returning official in each precinct, who shall, as nearly as practicable, be equally divided between those for and those against the proposition submitted. None of these officials are required to be qualified to vote or to reside in their precints. They may come from Baltimore, so far as any provision of the law is concerned.

Under this section the three managers could be against prohibition and the other three officers for it. With the three managers against it, it is very easy to see what the result would be upon challenges and upon any question involving the right of anyone to vote. If the managers are against the proposition and they think that the people of their precinct are for it, they could very easily reject any vote they see fit and could delay the voting without submitting themselves to any penalty. If any of those appointed by the commissioners fail to present themselves at the voting place, no provision is made for filling such vacancies. Could they be filled? If so, how? Could a man from Baltimore act? There is nothing to prevent this in the proposal of the Senator from Alabama.

Section 7: The commissioners are to deliver ballots, poll lists, tally sheets, return sheets, instructions for holding election, ballot boxes, voting booths, and so forth, to one of the managers of each precinct before the day of election.

How long before? No time is specified. Suppose the manager loses them, or some of them, how can they be supplied? There is no provision for such a contingency. Suppose the manager thinks his precinct is against his views, and he does not come to the polling place? There is no way to make him serve. There is no way to fill his place. There is no provision to compel him to turn over these things to some one else. It is not a fraud and not a corrupt act not to do so. Suppose he does not have a sufficient number of ballots for the voters, how is this deficiency to be supplied? Are those qualified to vote to be rejected because there are no ballots? For whose benefit are instructions for holding elections to be issued? Are the voters interested? Possibly so. Should they be advised of them? Surely so. But what good are these instructions if they are not to be brought to the attention of the voters before election day? What is to be done with them on election day to bring them to the attention of the voters? Are they to be

posted? If so, where? There is no provision in the law relating to these instructions, except that they are to be handed to one of the managers. He may keep them or lose them—perhaps leave them at home—or do anything else with them he sees fit, so far as the proposed provisions go.

The commissioners are to appoint a registrar, or registrars, for each election precinct, who is to register the qualified voters. Where are they to come from? May they be political workers from New Jersey or ward heelers from the slums of Baltimore? Nothing in the law to prevent.

How is he to determine who the qualified voters are? The managers of the election are made the sole judges of the qualifications of voters. The registrars are not authorized to administer oaths. They can do no more than take a man's word as to his age and length of residence. When and where is he to register the voters? In the time, in the place, in the manner provided by the commissioners? Suppose the registration is not completed in the time given by the commissioners. There is no provision to care for such a situation as this. What notice is to be given of registration? None. If a man fails to register and has no notice of the time and place of registration, can the managers still permit him to vote? There is nothing to prevent them from doing so. As a matter of fact, they are made the sole judges of the qualifications of voters. If they decide for a man who is not registered, or who has not complied with any other possible provision of the law, that ends it and he can vote. The proposed amendment does not say that a man must be registered in order to vote. What is the purpose of the registration? None is disclosed by the proposal under consideration. The commissioners are authorized to make such rules and regulations as in their discretion they deem necessary for the management of and the fair and orderly conduct of the election. To whom are those rules and regulations to be issued? If to the voters, how are they to be made acquainted with them? If to the managers of the election, how are they to be enforced? The commissioners can not impose penalties. They have no legislative power. Suppose they issue no rules and regulations. They do not have to issue any under the proposed amendment.

Is it possible that any real friend of the referendum will have such a halting, defective, imperfect makeshift as this to ascertain the will of the people of the District of Columbia upon an issue of this character? I can not think so. Will any friend of the referendum who also believes in prohibition have any hope that the cause of either will be furthered by following such an invitation to fraud, vice, and corruption as this measure offers? Surely not.

LIQUOR INTERESTS OPPOSE REFERENDUM FAVORED BY TEMPERANCE PEOPLE.

All the liquor interests, not only of the District of Columbia, but of the United States, are opposed to prohibition in the District of Columbia, because they know that prohibition in the National Capital will accelerate the movement for prohibition all over the country. They are all for this referendum. They are for it, not because they believe in it, but for the same reason that they have opposed the referendum any time heretofore. They have always opposed a referendum on the liquor question when the temperence people were fighting for it. Never before have they anywhere asked for a referendum on the liquor question. The only time they have ever favored it has been for the next smaller unit of government when the temperance people have been asking for a referendum in the next larger unit of government.

The State of Ohio is one of the best examples, because we have seen the liquor forces in action there in opposing a referendum on saloons in every political unit. When the legislature passed the township local-option law, away back in 1888, the liquor people vigorously opposed the referendum. Later they opposed the referendum for the municipalities of Ohio. Two years after the passage of that law they opposed a referendum on this question in residential districts in the cities of Ohio, and four years later they vigorously opposed the enactment of county local option, which, of course, is a pure and simple referendum in the county unit. They have also opposed regularly the submission of the question of State-wide prohibition until, by the adoption of the initiative and referendum in Ohio's new constitution they became no longer able to successfully oppose a referendum through legislative procedure. They show their opposition to the referendum, however, wherever the people have the suffrage and the referendum is reasonable and proper. They championed and attempted to get the people to indorse what was called the stability amendment in Ohio last year, which, if adopted, would have tied the hands of the people, so that they could not again vote on any constitutional provision which had been submitted and twice failed to carry during the six years next following such vote. In other words, these devotees of the people's rule tried to get the people to deny themselves the right to amend their State constitution for six years, after two wet State victories, in order to safeguard the liquor traffic and prolong its life.

The liquor traffic is opposing a referendum now in various subdivisions of the State, ranging from municipalities up to the State itself, in every State with saloons in the Union. The only places where they are willing for a referendum is where the people have prohibited the liquor traffic and they want a chance to try to bring it back. They have opposed the referendum in Maryland and Indiana. They are opposing it to-day in New York. They opposed it in Virginia for years, and it was only two years ago that the legislature finally, after a long period of antisaloon agitation, passed the enabling act, which permitted the people to vote on the saloon question in Virginia in September, 1914, and under which the State voted dry. Among others, the States of Nebraska, South Dakota, and Montana are to vote on the question of prohibition during the present year, and the liquor traffic opposed the submission of the question to the people in each of these States. Minnesota passed a county local-option law last spring, but it was vigorously opposed by the combined saloon forces of the State until they were simply outnumbered and outgeneraled in the legislature. It is safe to say that the liquor traffic universally has opposed a referendum on this question to the people, and they are only in favor of it in Washington because it seems to be the most effective way to delay or defeat the insistent demand for prohibition in the Nation's Capital.

The National Hotel Gazette, of January 24 last, said:

If prohibition should be fastened upon the District by the Congress of the United States without even so much as an attempt to ascertain the will of the people constituting its citizenship, an unconscionable crime will be committed.

If it would be an unconscionable crime to refuse a referendum in the District of Columbia, where there is really no authority for it, why did the liquor interests oppose the referendum in these cases?

REFERENDUM IN DISTRICT OF COLUMBIA UNCONSTITUTIONAL.

They are for the referendum now because they fear the Senate and Congress on a square vote on the issue will be against them and because of the conditions in the District, and through the avenues for fraud and corruption they hope to win in a referendum election. They also hope to win in the courts if they fail in the election. There is substantial basis for that hope, too. If they lose, if the vote is against them, they will go to the courts and contend that the referendum law is unconstitutional, as a delegation of legislative power by Congress.

Article I, section 1, of the Constitution of the United States provides:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Article I, section 8, provides:

That Congress shall have power to exercise exclusive legislation in all cases whatsoever over such District (not exceeding 10 miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States.

Exclusive legislative power could not be more clearly or definitely expressed. Congress is the sole governing body for the people of the District of Columbia. They have not the local sovereignty which is vested in the States, or enjoyed by local bodies under the jurisdiction of the States. All sovereignty and legislative power has been specifically delegated to Congress. Whether this plan was best and whether it should be continued is not a proper subject of controversy or discussion, in connection with this proposed referendum. Those who believe in local self-government for the District of Columbia can very properly ask for a change in the Constitution, but until the Constitution is changed no one who has a due regard for law and the Constitution can ask to make the District a distinctive sovereignty with legislative powers. There are no distinctive legislative units in the District of Columbia. Any legislation passed by Congress relating to the District of Columbia is and must be general, applicable to the entire District. This legislation for the District corresponds to general legislation passed by a legislature for the entire State.

A rule of law that is familiar to every lawyer is thus stated by Cooley in his "Constitutional Limitations," page 163, "Delegating Legislative Powers":

One of the settled maxims of law is, that the power conferred upon the legislature to make laws can not be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain; and by the constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom, and patriotism this high prerogative has been instructed can not relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved, nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust.

In many of the States the legislatures have referred to the people the question as to whether or not a proposed law shall go into effect. The courts have been called upon to pass upon the constitutionality of such measures where there was no provision in the constitution permitting it. There is a conflict of authority, but Cooley says, on page 168 of his Constitutional Limitations, seventh edition:

If the decision of these questions is to depend upon the weight of judicial authority up to the present time, it must be held that there is no power to refer the adoption or rejection of a general law to the people of the State any more than there is to refer it to any other authority. The prevailing doctrine in the courts appears to be that, except in those cases where by the constitution the people have expressly reserved to themselves a power of decision, the function of legislation can not be exercised by them even to the extent of accepting or rejecting a law which has been framed for their consideration. "The exercise of this power by the people in other cases is not expressly and in terms prohibited by the constitution, but it is forbidden by necessary and unavoidable implication. The senate and assembly are the only bodies of men clothed with the power of general legislation. They possess the entire power, with the exception above stated. The people reserve no part of it to themselves (with that exception), and can therefore exercise it in no other case." It is therefore held that the legislatures have no power to submit a proposed law to the people, nor have the people the power to bind each other by acting upon it. They voluntarily surrendered that power when they adopted the constitution. The government of the State is democratic, but it is a representative democracy, and in passing general laws the people act only through their representatives in the legislature.

Nor, it seems, can such legislation be sustained as legislation of a conditional character, whose force is to depend upon the happening of some future event or upon some future change of circumstances. "The event or change of circumstances on which a law may be made to take effect must be such as, in judgment of legislature, affects the question of expediency of the law; an event on which the expediency of the law, in the opinion of the lawmakers, depends. On this question of expediency the legislature must exercise its own judgment definitely and finally. When the law is made to take effect upon the happening of such an event, the legislature, in effect, declares the law inexpedient if the event should not happen, but expedient if it should happen. They appeal to no other man or men to judge for them in relation to its present or future expediency. They exercise that power themselves and then perform the duty which the Constitution imposes upon them." But it was held that in the case of the submission of a proposed free-school law to the people no such event or change of circumstances affecting the expediency of the law was expected to happen. The wisdom or expediency of the school act, abstractly considered, did not depend on the vote of the people. If it was unwise or inexpedient before that vote was taken, it was equally so afterwards. The event on which the act was to take effect was nothing else than the vote of the people on the identical question which the Constitution makes it a duty of the legislature itself to decide. The legislature has not power to make a statute dependent on such a contingency, because it would be confiding to others that legislative discretion which they are bound to exercise themselves and which they can not delegate or commit to any other man or men to be exercised.

Mr. THOMAS. Mr. President——

Mr. JONES. I yield to the Senator.

Mr. THOMAS. It has been my purpose to support the proposed submission of this question to a vote of the people of the District because of my belief in the general right of the people by a referendum vote to determine such matters for themselves; but the Senator is making a constitutional argument which impresses me very strongly and which up to this time seems to me to be unanswerable. However, I recall—and it is that about which I wish to question the Senator, since my memory may not be perfect concerning the matter—that at one time Congress by appropriate legislation conferred on the people of the District the power of self-government in certain matters; that is to say, by legislation they delegated to the people of the District the right to choose their own mayor or other governing official or officials. Assuming that that is true, I should like to ask the Senator whether, under the provision of the Constitution which gives Congress exclusive jurisdiction to legislate for the District, if Congress could delegate the right of self-government in regard to matters of a municipal character, it could not also delegate the right to vote upon a question of such importance as this one.

Mr. JONES. That is probably true. I do not think they could do it under our Constitution, although you will find in many cases the courts make really a distinction with reference to local matters.

Mr. WORKS. Mr. President——

Mr. JONES. I will yield in a moment to the Senator. As I look at it, the District of Columbia is just like a State. There are no different units in it, like we have counties and cities, and so on, in the States.

Mr. THOMAS. Of course the legislation to which I was referring was not referendum legislation.

Mr. JONES. I understand.

Mr. THOMAS. It was a delegation of the right of self-government under certain circumstances.

Mr. JONES. If the question had been raised I do not believe it would have been held to be constitutional. I yield to the Senator from California.

Mr. WORKS. I think it has been found necessary in all the States, so far as I know, to amend the constitution in order to permit a referendum vote.

Mr. THOMAS. That is undoubtedly true. But what is puzzling me as a legal proposition is the question whether, under the constitutional provision endowing Congress with exclusive jurisdiction to legislate for the District, it has the power to exercise some system of self-government, it being legal also to refer a matter of this kind to a vote of the people.

Mr. WORKS. Does the Senator remember that that was ever held by the Supreme Court to be legal?

Mr. THOMAS. I do not know that the question was ever passed upon. I understand the legislation was repealed because it was found to be appropriate to govern the District directly.

Mr. WORKS. I have had some occasion to look into that of late, but I do not know that the question was ever submitted to the court. I know it was found to be unwise to attempt to legislate for the National Capital in that way; it turned out to be disastrous.

Mr. JONES. I have looked into the matter as carefully as possible, and I have been unable to find any decision or any case that went up on the proposition.

Mr. THOMAS. I am very confident from the Senator's discourse that he has made considerable and exhaustive examination. Hence, I applied to him for information.

Mr. JONES. I tried to find if there was any case in the District of Columbia.

Oberholtzer, on The Referendum in America, at page 217, says:

The unconstitutionality of laws of this character is a general principle so firmly established throughout the Union to-day that the legislature prefers not to run the risk of submitting its act to popular vote. In the case of prohibitory liquor laws and other legislative questions of a vexatious character it is a much more feasible plan, as I have noted on earlier pages, to embody the proposal in an amendment to the State constitution. With the liberalization of our ideas in regard to constitutional law, and the simplification of the process by which amendments may be submitted to popular vote, there is little reason now why the legislature should pursue a course that may bring down upon itself the charge of having misunderstood and violated the charter from which it derives its whole authority.

Willoughby, on The Constitution, volume 2, section 779, at page 234, says:

The weight of authority, however, seems to be that the submission to the electorate of the entire State as to whether a measure shall or shall not become a law is void.

I have here a list of States that have adopted a constiutional provision for a referendum and initiative, and I will read it:

South Dakota, Utah, Oregon, Nevada, Montana, Oklahoma, Maine, Missouri, Arkansas, Colorado, Arizona, California, Nebraska, Washington, Idaho, Ohio, Michigan, and North Dakota.

See also Ruling Law Cases, page 167:

A distinction is made between matters of general and local concern, and local and not general laws may be enacted subject to the approval of the voters of a particular section of the State.

We have, as I said before, no distinction in the District of Columbia between localities and the State. It is for all purposes a State in itself.

I give citations of some cases bearing upon this matter:

Santo *v.* State (Iowa), 1855–1863; American Decision, 502, 503; 160 Massachusetts (1894), 589–696; ex parte Wall. (Cal. 1874), 17 American Reports, 426–434; Lammart *v.* Lidwell (Mo., 1876), 21 American Reports, 412; State *v.* Hayes, 61 New Hampshire Reports (1881), 264–339.

In the last case is a full discussion of authorities, and the court came to the conclusion that while the principle of local government authorizes the granting of limited power of local legislation to municipalities, the power of State general legislation can not be delegated by the Senate and House of Representatives, where it is vested by the Constitution.

I wish to refer to one or two cases. I have quite a number here. I shall not take the time of the Senate to read them, but I wish to refer to one or two cases that take up this matter very fully.

I have here the Sixty-sixth Ohio State Reports, page 555. That is the beginning of the case. It is the case of Allison against Garver. The syllabus is as follows:

The act "to limit the compensation of county officers in Holmes County," passed April 26, 1898 (93 O. L., 660), is a law of a general nature which does not operate uniformly throughout the State, and it is therefore in violation of the constitution, article 2, section 26.

That article is the one stating that the legislative power of a State is vested in the senate and house of representatives:

State ex rel. Guilbert *v.* Yates, ante., 546, approved and followed.

2. An act of the general assembly not coming within the exceptions stated in the constitution, article 2, section 26, which is passed to take effect and be in force when a majority of the voters at an election shall declare in favor of a salary law, and if a majority of the voters

do not so declare to be void, is passed to take effect upon the approval of authority other than the general assembly, and it is therefore unconstitutional and void.

At page 564 the court says:

This act is unconstitutional, also because it is conditioned to take effect only upon the result of an election by the people (constitution, art. 2, sec. 26, second clause).

Mr. NORRIS. Has the Senator the Ohio constitution?

Mr. JONES. I have not, but I examined the constitution. It is the general provision which says that the legislative power shall be vested in the legislature of the State.

Mr. NORRIS. Like the provision in the United States Constitution.

Mr. JONES. It is not near as strong, for the Senator will remember our Constitution says that exclusive legislation is vested in the Congress.

As I said, it is the general provision that is found in all constitutions that the legislative power shall be vested in a general assembly composed of the senate and house of representatives. That is the language of that section. I myself have examined it. Section 13 of the act provides:

Section 13 of the act provides for a vote upon the proposition, "For the county salary law; against the county salary law," and then provides that if a majority of the votes cast on said proposition shall be in favor of a salary law the act "shall take effect and be in force" from and after a day named; otherwise that the act should be void. The act can not take effect under the Revised Statutes, section 77, because it contains a provision as to the time when it shall take effect and be in force, if at all. Hence the taking effect, as well as the enforcement of the statute, is made to depend on the approval of another authority than the general assembly, namely, the will of a majority of the electors. The entire legislative power of the State is vested in the general assembly (constitution, art. 2, sec. 1), and even without the limitation contained in section 26, article 2, it could not be delegated.

Here is the statement of the court with reference to this section. They say:

It was held in Railroad Company *v.* Commissioners (1 Ohio St., 77, 87), which was a case under the constitution of 1802, that the power of the general assembly to pass laws could not be delegated by them to any other body or to the people; and this proposition is abundantly sustained by numerous authorities cited in the brief of the plaintiff in error.

Then the court discusses several Ohio cases that were cited by the other side of the controversy and distinguishes them from the case at bar.

I will put in that discussion without reading it if the Senate will permit me.

The PRESIDING OFFICER (Mr. JOHNSON of South Dakota in the chair). Without objection, the matter will be inserted.

The matter referred to is as follows:

The cases of State ex rel. *v.* Commissioners (5 Ohio Stat., 497), Noble et al. *v.* Commissioners (5 Ohio Stat., 524), Peck *v.* Weddell (17 Ohio Stat., 271), and Newton et al. *v.* Commissioners (26 Ohio Stat., 618) were all cases in which it was required by the constitution (art. 2, sec. 30), before the taking effect of the laws, that they should be submitted to the electors of the counties to be affected thereby and adopted by a majority of the electors voting at such election. In each of those cases the question was whether some other thing than the voting was necessary before the law could "take effect"; and the court held that the acts became law when adopted by a majority of the electors of the county, but that the legislative intention was that the law should not be enforced until the condition precedent should be performed. In Trustees *v.* Cherry et al. (8 Ohio Stat., 564) the court held that the vote which was required was a condition precedent to make an assessment to pay for the grounds which the trustees were authorized by the act to purchase. In Gordon *v.* State (46 Ohio Stat., 607) the act in question provided that it should take effect and be in force from and after its passage; but the question was whether the local-option provision contained in the act rendered it unconstitutional. The court held that the act "was a complete law when it had passed through the several stages of legislative enactment and derived none of its validity from the vote of the people. In all its parts it is an expression of the will of the legislative department of the State." Our conclusion is that there is nothing either in principle or the decisions of this court contravening the view which we have expressed concerning the effect of section 13 of the act (93 O. L., 660). It affects the whole act, and the act is as if it never had been passed.

Mr. JONES. Then I have a Massachusetts case. It is not exactly a case. It seems that in Massachusetts they had a provision under which the legislature could call upon the members of the court for an opinion with reference to the constitutionality of proposed legislation. The legislation was submitted under that provision. It is found in 160 Massachusetts in the supplement.

Mr. CLAPP. I will remind the Senator, while it is not technically germane, that even that provision has been held void in other States conferring authority to submit the question to the court.

Mr. JONES. This is the opinion of the justices to the house of representatives, at page 589. This was the question submitted: Is it constitutional to provide, in an act granting women the right to vote in town and city elections, that it shall take effect on approval by the people? That is the question which was submitted to the justices.

The constitutions of different States resemble one another in many of their principal provisions, and it generally has been held, whenever the subject has come before the courts, that the legislative power can not be delegated by the legislature to any other body or authority, and that the people themselves have not retained this power except where they have expressly provided for it.

It is true that a general law can be passed by the legislature to take effect upon the happening of a subsequent event. Whether this subsequent event can be the adoption of the law by a vote of the people has occasioned some differences of opinion, but the weight of authority is that a general law can not be made to take effect in this manner. Whether such legislation is submitted to the people as a proposal for a law, to be voted upon by them and to become a law if they approve it, or as a law to take effect if they vote to approve it, the substance of the transaction is that the legislative department declines to take the responsibility of passing the law; but the law has force, if at all, in consequence of the votes of the people; they ultimately are the legislators. It seems to us by the constitution the senate and the house of representatives have been made the legislation department of the government, and that there has not been reserved to the people any direct part in legislation. The various amendments made by the constitution since its adoption have not changed its character in this respect. By the second and ninth articles of amendments to the constitution, an act constituting a town or towns a city government can be passed only with the consent of the inhabitants of such town or towns, and specific amendments to the constitution proposed by the general court must be sumbitted to the qualified voters of the Commonwealth. A city charter resembles a State constitution in this, that the government of the town is made by the charter a representative government, and it was originally declared that the people alone have a right to institute government and to change it. Declaration of Rights, article 7. These amendments, as well as the other amendments to the constitution, indicate no intention of having laws submitted to the people for adoption or rejection.

For these reasons, we are of opinion that the first question should be answered in the negative.

This is signed by Walbridge A. Field, Charles Allen, James M. Morton, and John Lathrop. Then there is a dissenting opinion signed by Oliver Wendell Holmes, jr., and then another opinion quoted, which I want to put in my remarks, at page 596, to the same effect as the others I have read, signed by Marcus P. Knowlton.

The PRESIDING OFFICER. It will be inserted, without objection.

The matter referred to is as follows:

In adopting the constitution the people of the Commonwealth established a representative government consisting of three departments, the executive, the legislative, and the judicial. In these all the power originally residing in the people was vested and through them all the functions of the government are to be performed. The framers of the constitution did not seek to establish a pure democracy, but they preferred a system in which all power should be vested in officers chosen by the people. The execution of the laws is intrusted to the governor and his associates in his department, the enactment of laws to the legislature, subject qualifiedly to the approval of the governor, and the interpretation of the laws to the justices appointed for that purpose. The members of each of these departments of the government are charged with the duty of doing that which belongs to their department. They can not delegate their official power to others. The governor is not a mere agent of the people who can refuse to assume the responsibility of action in matters within his department and put upon the electors as his principals the duty of deciding for him whether his actions shall be of one kind or another. He is for time the repository of all the power of the people in those matters which belong to his office. He must do his official duty, and there is no way in which he can shift the burden of the executive business from his shoulders to those of the people of the Commonwealth. If an application for the pardon of a criminal is made to him he can not relieve himself of responsibility by entering an order that the pardon shall be granted if the people of the State, at a meeting called for the purpose, vote in favor of it.

A judge who under the constitution derives all his power from the people can not refer back to the people the cases which he is called upon to decide. He can not enter a decree that this case shall be decided for the plaintiff, or this law shall be declared unconstitutional if a majority of the people so decide upon the submission of the question to them at their next election. The sole power to grant pardons is in the governor, and the sole power to decide judicial controversies is in the judges. By the bestowal of this power in the adoption of their constitution the people were divested of that which was bestowed, and it can be restored to them by nobody so long as the constitution remains unchanged.

Nor was it any more contemplated by the framers of the constitution that the department of the government which is charged with the duty of enacting laws should fail to do its whole duty, and should merely propose to the people laws which shall or shall not take effect as the people vote. The legislature is the law-making body. The people's representatives acting together after due deliberation, are to complete the work of making such laws as seem to them good. The people deliberately put away from themselves into the hands of this body all authority touching this subject, and until there is a change of the constitution neither they nor the legislature can put it or any part of it back. Their supreme power may find full exercise from time to time in choosing those who represent them, and in amending the constitution or adopting a new one. Under our frame of government, to call in the people to vote directly upon the enactment of a law is, in my opinion, as much an attempt to delegate legislative power as the submission of such a question to any other tribunal.

The reasons which induced our forefathers to adopt such a system might be considered at great length, but we are not now so much concerned with the reasons for their action as with the nature and effect of it. The important fact is that their scheme of government was intended to cover the whole field, and it leaves no place for the people in the enactment of laws, except as they speak through their representatives.

In the interpretation of similar constitutions in other States there is a great weight of judicial authority in favor of this view. Decisions in accordance with it have been made by the courts of last resort in New Hampshire, New York, Pennsylvania, Delaware, Indiana, Iowa, Missouri, California, and Texas.

Mr. JONES. Then I have a case from the State of Iowa—Santo against State, found at page 497 in Sixty-third American Decisions. This case was on a local-option proposal. I desire to read a brief paragraph at page 502:

We will first consider the question relating to the submission of an act to a vote of the people; and on this subject we entertain no doubts. The general assembly can not legally submit to the people the proposition whether an act should become a law or not, and the people have no power, in their primary or individual capacity, to make laws. They do this by representatives. There is no doubt of the authority of the legislature to pass an act to take effect upon a contingency. But what is a contingency in this sense and connection? It is some event independent of the will of the law-making power, as exercised in making the law, or some event over which the legislature has not control.

For instance, the embargo laws and their cessation were made to depend upon the action of foreign powers in relation to certain decrees. The will of the lawmaker is not a contingency in relation to himself. It may be such in relation to another and external power, but to call it so in relation to himself is an abuse of language. Now, if the people are to say whether or not an act shall become a law, they become, or are put in the place of, the lawmaker. And here is the constitutional objection. Their will is not a contingency upon which certain things are or are not to be done under the law, but it becomes the determining power whether such shall be the law or not.

It seems to me there is no way of getting around the logic there presented. The law that is proposed here will not be a law unless the people approve it. The people make it; Congress does not make it, and it is not proposed that Congress shall make it. The opinion proceeds:

This makes them the "legislative authority," which, by the Constitution, is vested in the Senate and House of Representatives and not in the people.

I ask leave to continue the quotation, pages 502 to 505, which I have marked, without reading.

The PRESIDING OFFICER. The Chair hears no objection.

The matter referred to is as follows:

It can not be considered necessary to argue concerning the submission of acts of incorporation to the acceptance of the corporators. These are private matters, and not a part of the public law of the land. It is a question of private interest only whether certain persons shall become a corporation; and, in the case of a strictly private one, probably the legislature could not make them such against their assent. And in the case of municipal corporations, they are, in the legal sense, private; and so they are in a common sense, to all practical intents.

It is a question for the local community alone to determine whether they will be incorporated or whether they will be so as a town or city. This distinction is made practically, always and everywhere, whether it be founded in strict logic or not. The constitution prescribes the manner in which bills shall become laws, and acts or laws can be enacted in no other way. A certain body or department is created for this purpose, and no other has the smallest authority in that respect. Article 3 of the constitution is, in part, as follows: "The powers of the government of Iowa shall be divided into three separate departments—the legislative, the executive, and the judicial. The legislative authority of this State shall be vested in a senate and a house of representatives, which shall be designated the General Assembly of the State of Iowa, and the style of their laws shall be: 'Be it enacted by the General Assembly of the State of Iowa.'" How is a law enacted? Section 16 of the same article directs that "bills may originate in either house, except," etc.; and "every bill, having passed both houses, shall be signed by the speaker and president of their respective houses." And section 17 provides that "every bill which shall have passed the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections," etc. Then follow directions as to how it shall become a law, notwithstanding the governor's objections. It will be observed that there are under the constitution but three departments of the government; that the legislative department consists of the senate and house of representatives, and the people do not constitute a portion of it; and that laws are enacted "by the general assembly." This is the mode provided by the constitution for making laws. A bill becomes an act or a law in the above manner or it never becomes such. A vote of the people can not make it become a law, nor can it prevent it becoming one. After a bill has thus passed the two houses and received the approval of the governor, and thus becomes a law by the constitution, how can a vote of the people affect it? As well might this court submit the decision of these causes to a vote of the people of the State, or of a judicial district, or the governor his pardoning power. If there is any efficacy in a vote of the people in passing a law, then, of course, it can be repealed only by a vote.

What effect, then, had the vote of the people? None at all, in a legal sense or manner. The constitution made it an act of the general assembly when it had passed the two houses and received the proper signatures. But it is argued that the eighteenth section, submitting the act to a vote, is part of the act, and so becomes a law with the rest. The answer to this is that if the general assembly has no authority to submit such a question, then such a provision is void, and it will follow that either the whole act or the section containing the objectionable matter is null and void. The following are authorities on both sides of the question of submitting acts to a vote of the people, the following hold it constitutional: State of Vermont *v.* Parker (26 Vt., 357); Johnson *v.* Rich (9 Barb., 680). The following hold it unconstitutional: Thorne *v.* Cramer (15 Id., 112); Bradley *v.* Baxter (Id., 122; S. C., 1 Am. Law Reg., 658); Barto *v.* Himrod (8 N. Y., 483; 59 Am. Dec., 506); Rice *v.* Foster (4 Harr. (Del.), 479); People *v.* Collins (3 Mich., 343; S. C., 2 Am. Law Reg., 591); Commonwealth *v.* McWilliams (11 Pa. St., 61); Parker *v.* Commonwealth (6 Id., 507; 47 Am. Dec., 480).

This leads us to the next step, which is, whether the whole act, or the the eighteenth section only, is invalid. It is assumed, for the present, that the matter was submitted to the people in the largest and broadest sense. This is unconstitutional and void. But an act void in part is not necessarily void for the whole. If sufficient remains to effect its object, without the aid of the invalid portion, the latter only shall be rejected, and the former shall stand. This doctrine is clearly maintained in the Massachusetts cases: Fisher *v.* McGirr, and other cases (1 Gray, 1; 61 Am. Dec., 381); Campbell *v.* Mississippi Union Bank (6 How. (Miss.), 625); State *v.* Cox (8 Ark., 436); Commonwealth *v.* Kimball (24 Pick., 361; 35 Am. Dec., 326); Norris *v.* Boston (4 Met., 288); Clark *v.* Ellis (2 Blackf., 10). Now, the prohibitory act of Iowa is a complete act in all its parts, without the eighteenth section submitting it to the people. No part depends for its efficacy or practicability on that section. It can be carried into effect as well without it as with it. That section relates to nothing but the vote, the returns, publication of the result, and like matters. Testing this act, then, by the same rules which are applied to others, we see no reason why the whole act should be declared unconstitutional and void. It was not the vote of the people which was unconstitutional, but it was the submission to the people; and that part of the act was and is invalid if it submitted the question whether it should be the law or not; and the vote was to a legal intent nugatory. It effected nothing. The act would have been law had the vote been against it. Why the courts of some States have held an act submitted to the people to be void rather than the mere act of submission, as in the case of the New York school law, does not clearly appear. Under our constitution and laws there seems to be no difficulty, as will be shown in the next step of our inquiry.

Mr. JONES. I have one more decision here I will call attention to, because it is comparatively recent. This is the case of Wright against Cunningham, in One hundred and fifteenth Tennessee, at page 445, and this was a liquor statute. At page 458 the court says:

The act may provide upon its face that this duty of compliance may depend upon the happening of a condition or contingency. It has been so held in this State (State *v.* T. C. I. & R. R. Co., 16 Lea, 136); and this rule is general.

The controversy in the authorities arises over the nature of the condition or contingency, specifically whether a favorable vote of the people may be made the condition. On the one hand, it is said that the event must be such as, in the judgment of the legislature, affect the question of the expediency of the law, and that upon this question the legislature must exercise its own judgment definitely and finally, and can appeal to no other man or men to judge for them.

It cites several cases and then quotes a dissenting opinion following the contrary view in different cases, which I will put in the RECORD with my remarks but will not take the time of the Senate to read now.

The matter referred to is as follows:

Per Ruggles, C. J., in Barto *v.* Himrod (8 N. Y., 483; 59 Am. Dec., 506; Cooley, Const. Lim. (7th ed.), 169). The point was thus put by Reed, J., in his dissenting opinion in Paul *v.* Gloucester Co. Circuit Judge (50 N. J. Law, 585; 15 Atl., 272; 1 L. R. A., 86): "The difference between the statutes based upon a valid contingency and those based upon a contingency void as a delegation of legislative power may, I think, be clearly stated. The first is a statute ordaining a fixed rule of civil conduct applying to a certain prescribed condition of fact which may arise in futuro. The last is a statute which leaves to the people the power to say whether, when such a rule has been enacted, it shall ever become operative. One leaves the rule a law ready to operate upon the subject matter whenever it arises. The other leaves it to another to say whether the rule shall ever become a law." (15 Atl., 286; 1 L. R. A., 96.) The opposite view is thus stated by Redfield, C. J., in State *v.* Parker (26 Vt., 357): "If the operation of a law may fairly be made to depend upon a future contingency, then, in my apprehension, it makes no essential difference what is the nature of the contingency, so it be an equal and fair one, a moral and legal one, not opposed to sound policy, and so far connected with the object and purpose of the statute as not to be a mere idle and arbitrary one. * * * It seems to me that the distinction attempted between the contingency of a popular vote and other future contingencies is without all just foundation in sound policy or sound reasoning, and that it has too often been made more from necessity than choice, rather to escape from an overwhelming analogy than from any obvious difference in principle in the two classes of cases; for * * * one may find any number of cases in the legislation of Congress where statutes have been made dependent upon the shifting character of the revenue laws, or the navigation laws, or commercial rules, edicts, or restrictions of other countries. In same, perhaps, those laws are made by representative bodies, or it may be by the people of these States, and in others by the lords of the treasury or the boards of trade, or by the proclamation of the sovereign; and in all these cases no question can be made of the perfect legality of our acts of Congress being made dependent upon such contingencies. It is, in fact, the only possible mode of meeting them, unless Congress is kept constantly in session. The same is true of acts of Congress by which power is vested in the President to levy troops and draw money from the Public Treasury upon the contingency of a declaration or act of war committed by some foreign State, Kingdom, Empire, prince, or potentate." In Smith *v.* Janesville (26 Wis., 291), Dixon, C. J., states the matter as follows: "But if is said that the act is void, or at least so much of it as pertains to the taxation of shares in national banks, because it was submitted to a vote of the people, or provided that it should take effect only after approval by a majority of the electors voting on the subject at the next general election. This was no more than providing that the act should take effect on the happening of a certain future contingency, that contingency being a popular vote in its favor. No one doubts the general power of the legislature to make such regulations and conditions as it pleases with regard to the taking effect or operation of laws. They may be absolute or conditional and contingent; and if the latter, they may take effect on the happening of any event which is future and uncertain. Instances of this kind of legislation are not infrequent. The law of Congress suspending the writ of habeas corpus during the late rebellion is one, and several others are referred to in the case In re Richard Oliver (17 Wis., 681). It being conceded that the legislature possesses this general power, the only question here would seem to be whether a vote of the people in favor of a law is to be excluded from the number of those future contingent events upon which it may be provided that it shall take effect. A similar question was before this court in a late case (State ex rel. Attorney General *v.* O'Neill, Mayor, etc., 24 Wis., 149) and was very elaborately discussed. We came unanimously to the conclusion in that case that a provision for a vote of the electors of the city of Milwaukee in favor of an act of the legislature before it should take effect was a lawful contingency, and that the act was valid. That was a law affecting the people of Milwaukee particularly, while this was one affecting the people of the whole State. There the law was submitted to the voters of that city, and here it was submitted to

those of the State at large. What was the difference between the two cases? It is manifest, on principle, that there can not be any."

It is perceived that the illustration given by Redfield, C. J., falls directly within the description of the admissible contingencies referred to by Ruggles, C. J., and Reed, J., which may be selected in advance by the legislature as determining the expediency of putting into operation the provisions of a given law, without recourse to the decision of the people of the State or country who are to be affected by that law, and whereby a vote may make the law operative or not, according to their own views of policy or expediency, without regard to the grounds on which the legislators acted in passing or proposing the law; in the former class of cases the act becoming a law and becoming operative by virtue of the authority of the legislature itself, and in the latter being reduced to a mere proposition to the electorate of a State, and becoming operative as a law by virtue only of the action of such electorate. It is also perceived that Dixon, C. J., offers the same class of illustrations and one other, the last being the case of a town or city voting to accept or reject a law provided by the legislature for a specified locality in a State, a municipal corporation of the State, a point to which we shall return later.

We incline to the views expressed by Ruggles, C. J., and Reed, J.

Judge Cooley, in his work on Constitutional Limitations, while expressing his personal opinion that the rule championed by Redfield, C. J., and Dixon, C. J., is the sounder one, yet concedes in his text that the opposite view has the weight of judicial opinion in its favor, so far as concerns general laws applicable to a whole State. (Id., 7th ed., pp. 168, 169.) See to the same effect the discussion contained in the Opinion of the Judges in re Municipal Suffrage to Women (160 Mass., 586; 36 N. E., 488; 23 L. R. A., 113), and State ex rel. *v.* Forkner (94 Iowa, 1; 62 N. W., 772; 28 L. R. A., 206); Ex parte Wall (48 Cal., 279; 17 Am. Rep., 425); Morford *v.* Unger (8 Iowa, 82); Santo *v.* State (2 Iowa, 165; 63 Am. Dec., 487); State *v.* Beneke (9 Iowa, 203); State *v.* Wilcox (45 Mo., 458); Gibson *v.* Mason (5 Nev., 283); State *v.* Hayes (61 N. H., 264); Thorne *v.* Cramer (15 Barb. (N. Y.), 112); Barto *v.* Himrod (supra); People *v.* Stout (23 Barb. (N. Y.), 349); Parker *v.* Com. (6 Pa., 507; 47 Am. Dec., 480); Cin., etc., Ry. Co. *v.* Clinton (1 Ohio St., 77); People *v.* Collins (3 Mich., 343).

But the great majority of the cases seem to favor the constitutionality of what are termed "local-option laws," under which the people of a county, city, or town are permitted to decide by a popular vote whether a given statute, providing police regulations in respect of the sale of intoxicating liquors, the running of live stock at large, etc., shall be operative in such county, city, or town. (Cooley, Const. Lim., 7th ed., 172–174; 19 Am. & Eng. Ency. Law, 2d ed., pp. 488–496.)

We have read and considered such of the cases cited as are accessible to us, and in the discussions contained in the majority and minority opinions appearing in these cases we have had the benefit of many other authorities not directly accessible, and we have attentively considered the grounds on which the numerical weight of authority is rested. It would be a useless consumption of time to attempt a discussion of these cases—indeed, an impossible task within the limits of a judicial opinion.

Suffice it to say that questions of State constitutional law are, in a very important sense, peculiarly local, and in every jurisdiction the court of last resort must decide for itself the meaning of the constitution under which it exists and the validity of laws enacted by the legislative branch of the government. The decisions of other courts construing constitutions containing similar provisions can be, at most, only suggestive and advisory.

Upon the subject of a popular vote to determine whether a legislative act shall be effective within a given subdivision of the State, our constitution contains the following provisions:

By article 2, section 29, it is provided that: "The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes, respectively, in such manner as shall be prescribed by law. * * * But the credit of no county, city, or town shall be given or loaned to or in aid of any person, company, association, or corporation, except upon an election to be first held by the qualified voters of such county, city, or town, and the assent of three-fourths of the votes cast at said election. Nor shall any county, city, or town become a stockholder with others in any company, association, or corporation, except upon a like election and the assent of a like majority."

By article 10, section 2, it is provided: "No part of a county shall be taken off to form a new county, or a part thereof, without the consent of two-thirds of the qualified voters in such part taken off; and where an old county is reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of two-thirds of both branches of the legislature, nor shall the seat of justice of any county be removed without the concurrence of two-thirds of the qualified voters of the county."

By article 2, section 1, it was provided that: "The powers of the government shall be divided into three distinct departments—the legislative, executive, and judicial."

By section 2 it was provided that: "No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed and permitted."

PEOPLE THROUGH LEGISLATURES ONLY WAY TO AMEND CONSTITUTION.

Mr. JONES. The only power reserved in our National Constitution is the power of the people to vote upon amendments. That, even, is not reserved to the people of the District of Columbia in our National Constitution. The only power that can amend the Constitution of the United States is that of the people of the different States of the Union acting through their legislatures, or it may be submitted through conventions. The court says:

The only power of legislation which was reserved to the people at large was the power to vote upon amendments to the constitution. (Art. 11, sec. 3.) For the rest they were content to reserve to themselves the power of electing their officers for limited terms, and to reserve the various fundamental rights embraced in the Bill of Rights, only one of which latter, that embraced in section 23, bears upon legislation. That section declares "that the citizens have a right, in a peaceable manner, to assemble together for the common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by address or remonstrance."

It is a well-recognized principle that the legislature of a State has all powers of legislation, except in so far as it may be restrained by the constitution of the State or of the United States, expressly or by necessary implication. (Redistricting Cases, 111 Tenn., 234, 291, 292, 80, S. W., 750.)

There is another principle which should be recalled at this stage of the discussion, viz: That legislative power can not be delegated except in those special instances in which the Constitution itself authorizes such delegation or those sanctioned by immemorial usage originating anterior to the constitution and continuing unquestioned thereunder.

And all the cases that apparently held that the legislative power can be delegated are as a matter of fact based upon that principle of the law as declared by this court:

The immemorial usage referred to has found its expression in only two forms: Firstly, in the powers conferred upon municipal corporations in their several charters, and by general statutes applying to such corporations and pertaining to the ordering and administration of their local affairs; secondly, in the powers conferred upon the quarterly county courts of the several counties of the State for the management of local matters. It is said in our cases that the counties of the State are municipal corporations of a noncomplex character; that the county courts constitute the governing body of these corporations; that these courts have judicial and police powers; that "they can exercise that portion of the sovereignty of the State communicated to them by the legislature and no more"; and that "in the exercise of the powers so conferred they become miniature legislatures, and the powers so exercised by them, whether they are called municipal or police, are in fact legislative powers." (Grant *v.* Lindsay, 11 Heisk., 666; Maury Co. *v.* Lewis Co., 1 Swan, 236, 240; Redistricting Cases, 111 Tenn., 253–257, 80 S. W., 750.) The origin of the power to delegate legislative functions to the counties is not only to be found in ancient usage, but also may be traced to the direct language of the Constitution, which provides, in Article XI, section 9, that "the legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be expedient."

But in delegating the powers mentioned to municipal corporations proper, or to counties, the legislature has always under our system dealt with the governing bodies of these organizations as the representatives of the constituent people and not directly with the people themselves. Nor is the principle impaired by the force of the well-recognized rule that the acceptance, rejection, or surrender of municipal charters may be left by legislative act to the vote of the people embraced in an existent or proposed municipality (Cooley Const. Lim., 7th ed., 165, 166; Brinkley *v.* State, 108 Tenn., 475, 67 S. W., 796), any more than by the fact that general charters may be framed for the creation of private corporations which may never become actually operative until adopted by the requisite number of persons organizing under them, and which may subsequently be surrendered by the same persons or their successors.

We see no difference in principle between making the operative efficacy of an act of the legislative dependent upon the contingency of a favorable vote of the whole constituency of the State (which we have seen can not be done) and making the efficacy of an act dependent upon the favorable vote of a single county, and there is none. Such difference can not be found in the fact, as many cases in other jurisdictions hold, that the powers conferred upon such subordinate divisions of the State are police powers. The nature of the powers conferred may have, and no doubt does have, a controlling influence in determining whether they shall be delegated at all, but can have no influence in fixing the method under which they shall be devolved. Whether a legislative act embrace police powers or other powers, rights, or duties, at last it is but a legislative act, and to be valid must square with the Constitution in all respects. All legislative acts, regardless of their contents or of their relative importance, must pass the same ordeal, not one, from a constitutional standpoint, being entitled to more consideration, or subjected to more stringent limitations, or to be treated with more leniency than any other. All must be measured with the same measure.

On these grounds we are of the opinion that, under our Constitution, no legislative act can be so framed as that it must derive its efficacy from a popular vote. To be valid it must leave the hands of the legislature complete; not in the sense that it must go into effect at once, it is true, but it must at its birth bear the impress of sovereignty and speak the sovereign will. If it contain within itself a condition or a contingency suspending to some future time, or to the happening of some future event, its obligatory force as a rule of action or conduct of the people for whom it was intended, that contingency or that event must be one selected by the sovereign power itself as one the happening of which shall render it immediately expedient that the suspension of the power inherent in the act shall cease, and that it shall at once become operative as a rule of conduct for the government of the people. Obviously, if the contingency selected be the favorable vote of the people who are to be governed by the law, it is that vote which makes the statute efficacious as a law and not the antecedent will of the legislature, the constitutional lawmaking power. It is said in some of the cases that the vote is the effect of the law, and not the law the effect of the vote; but we think this is a mere play on words, since it is clear that, if all laws were made dependent upon such a contingency, representative constitutional government would be destroyed.

It is the purpose of our institutions, so far as they concern legislative bodies, that the popular will should find expression in the laws enacted by such bodies. This is to be accomplished, however, under the Constitution, by sending representatives to those bodies whose views upon public questions are known and whose faithfulness is approved, and by petition and by instructions formulated in popular assemblies and forwarded to the lawmaking power, and by retiring from public life those who fail to truly represent their constituents, and by sending in their stead others who will supply what has been left undone and correct what has been wrongfully done.

In Seventeenth American Reports is found the decision in the case of Ex parte Wall, Forty-eighth California, page 279, from which I quote the following:

But it does not follow that a statute may be made to take effect upon the happening of any subsequent event which may be named in it. The event must be one which shall produce such a change of circum-

stances as that the lawmakers, in the exercise of their own judgment, can declare it to be wise and expedient that the law shall take effect when the event shall occur. The legislature can not transfer to others the responsibility of deciding what legislation is expedient and proper, with reference either to present conditions or future contingencies. To say that the legislators may deem a law to be expedient, provided the people shall deem it expedient, is to suggest an abandonment of the legislative function by those to whose wisdom and patriotism the Constitution has intrusted the prerogative of determining whether a law is or is not expedient. Can it be said in such case that any member of the legislature declares the prohibition or enactment to be expedient?

A statute to take effect upon a subsequent event, when it comes from the hands of the legislature, must be a law in presenti to take effect in futuro. On the question of the expediency of the law, the legislature must exercise its own judgment definitely and finally. If it can be made to take effect on the occurrence of an event, the legislature must declare the law expedient if the event shall happen, but inexpedient if it shall not happen. They can appeal to no other man or men to judge for them in relation to its present or future propriety or necessity; they must exercise that power themselves, and thus perform the duty imposed upon them by the constitution. But, in case of a law to take effect, if it shall be approved by a popular vote, no event affecting the expediency of the law is expected to happen. The expediency or wisdom of the law, abstractly considered, does not depend on a vote of the people. If it is unwise before the vote is taken, it is equally unwise afterward. The legislature has no more right to refer such a question to the whole people than to a single individual. The people are sovereigns, but their sovereignty must be exercised in the mode pointed out by the constitution. (Barto *v.* Himrod, 8 N. Y., 483; Rice *v.* Foster, 4 Harr., 479.)

It was argued that the general statute which prohibits the sale of intoxicating liquors without license and the "local option" statute should be read as one law, and so reading them, that it is not left to the popular vote to give effect to the law, but only to determine whether licenses shall be issued under the law. This distinction seems to have been recognized by the Supreme Court of New Jersey in State *v.* Morris Common Pleas, 36 N. J., 72; S. C., 13 Am. Rep., 422. There a statute was sustained which, in itself, contained a prohibition of sales without license, and then left to the people in town meeting, to say whether licenses should be granted. The supreme court of that State, after stating the test to be whether the enactment, when it passed from the hands of the lawgivers, had taken the form of a complete law, said: "It (the statute) denounces as a misdemeanor, the selling of liquor without license; so far it is positive and free from any contingency; it is left to the popular vote to determine, not whether it should be lawful to sell without license, but whether the contingency should arise under which licenses should be granted." The New Jersey statute left the option whether licenses should or should not be granted to the people in "town meeting." The difference between the action of towns, as local governments, and a submission to the voters living in any merely territorial subdivision of a county, will be hereinafter pointed out. I do not think, however, that the distinction asserted by the Supreme Court of New Jersey can be maintained. A law being in operation authorizing the business of retailing liquors, provided a license be first obtained, the legislature enacts that the people of a town shall determine whether any license shall be granted. If they determine that licenses shall not be granted, none can be issued.

It is plain in such case that the lawmakers do not intend to establish the new rule, until it shall have other sanction and allowance than that of the legislature itself. Licenses were granted by authority of the old law; they can be prohibited only by a new law. But in the case supposed, the legislature does not determine that licenses shall not be granted, but leaves it to the popular vote to determine the very contingency which the legislature must determine for themselves, in order to give effect to the law.

It is certain that the sections of the general revenue law relating to licenses to vendors of liquors, remain in force until the vote is counted and announced, as required by the statute; it is equally certain (if the statute is valid) that these sections cease to have force from the time the vote is announced, if the majority is against license. By whom, in such case, are the provisions of the revenue law repealed or suspended—by the legislature or by the people of the town?

And we are thus brought to another question: Can this law be sustained as in effect conferring on "towns" the power of regulating within their limits the sale of intoxicating liquors?

In determining this question I do not deem it necessary to decide any of the following:

1. Can the officers of a city or town be empowered to regulate the sale of intoxicating liquors; and, if so, can they prohibit the sale in certain quantities under the power to regulate it?

2. Can a city or town, by ordinance or by law, make that a criminal offense which is legalized by the general laws of that State?

3. Does an act of the legislature authorizing a by-law, the effect of which is to relieve those making sales of more than five gallons, within the town, from the payment of a license tax, which those engaged in the same business outside of the town are obliged to pay, violate the provision of the constitution: "All laws of a general nature must have a uniform operation"?

4. Would a law be unconstitutional which conferred a power upon the officers of a county or town, to be exercised at the option of the officers, provided the people of the county or town should vote in favor of the exercise of the power by the officers?

It is enough to say this statute can not be sustained as conferring on the towns the power referred to, because no "towns" have ever been created in this State.

Our constitution, in terms, makes it the imperative duty of the legislature to create certain local governments. "The legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the State." Article 11, section 4. "It shall be the duty of the legislature to provide for the organization of cities and incorporated villages," etc. Article 4, section 37. The behest of the constitution as to "town" will be obeyed when a system of town governments shall be established by law. When the system shall be established, the towns may make such rules or by-laws as they shall be authorized to make by the statutes which shall give them life and entity. The bestowal on them of the power to make proper local rules or by-laws will not be a delegation of legislative power conferred on the senate and assembly, because, as was said in Houghton *v.* Austin, supra, the exercise of such power by the counties, towns, cities, and incorporated villages, is recognized by the same constitution which confers the general legislative power upon the State legislature.

LEGISLATURES CAN NOT DELEGATE AUTHORITY.

In the case of Lammert, appellant, against Lidwell, Sixty-second Missouri, page 188, found in Twenty-first American Reports, page 411, I quote from the decision of the court as follows:

By the constitution of this State the legislative power is vested in the general assembly, composed of the senate and house of representatives. They must exercise the legislative authority in the enactment of laws and they can not delegate their trust. The legislature can not propose a law and submit it to the people to pass or reject it by a general vote, for that would amount to legislation by the people. But a law may be passed, which is complete in itself, to take effect in a future contingency or upon the happening of an event.

The question has been before this court upon several occasions, and the line of distinction has been drawn in reference to the different character of such laws. There is a general law upon the statute in regard to the incorporation of towns, investing the county courts with power to declare them incorporated upon the performance of certain conditions by the inhabitants. This law was contested for the reason that it was a delegation of political power and that the proceedings of the court were legislative in their character. But the statute was decided to be valid on the ground that the corporation derived all its power from the law and that the court merely gave the law application when certain conditions were performed by the inhabitants. (Kayser *v.* Bremen, 16 Mo. 88; State *v.* Weatherby, 45 id. 17.) So, acts of the legislature authorizing towns, cities, and counties to subscribe stock in corporations and incur expenses for different purposes have been uniformly upheld. The validity of such laws has never been doubted since the decision in the City and County of St. Louis *v.* Alexander, 23 Mo., 483. The provision in the statute authorizing cities and towns to organize for school purposes, upon a vote of the people, has been declared constitutional (State *v.* Wilcox, 45 Mo., 458), and the township organization law was declared not to be liable to any objection, as it was a law which took effect from and after its passage, and where a majority of the voters in a county voted for it, their votes did not create the law, but placed the county voting for it within its provisions. (Town. Organ. Law, 55 Mo., 295.)

It may now be conceded as the established doctrine that statutes creating municipal corporations or imposing liabilities upon municipalities, or authorizing municipalities to incur debts and obligations, or to make improvements, may be referred to the popular vote of the districts immediately affected—that is to say, the people of such districts may decide whether they will accept the incorporation or will assume the burdens. This is the prevailing rule in reference to local measures. But in all these cases the legislature had enacted a complete and valid law, according to the prescribed usages governing the passage of laws, and the happening of the contingency or the future event, which furnishes the occasion for the exercise of the power, gives no additional efficacy to the law itself. It derives its whole vigor and vitality from the exercise of the legislative will and not from the vote of the people. But no body but the legislature can make or repeal a law. The provision of the road law of 1851, which declared that if the county court of any county should be of opinion that the provision of the act should not be enforced, they might, in their discretion, suspend the operation of the same for any specified length of time, and thereupon the act should become inoperative in such county for the period specified in such order; and thereupon order the roads to be opened and kept in good repair under the laws heretofore in force, or the special acts on the subject of roads and highways, were adjudged to be unconstitutional and void in this court, as attempting to confer upon the county courts legislative power. (State *v.* Fields, 17 Mo., 529.)

In one of the leading cases on the subject (Barto *v.* Himrod, 4 Seld., 483) the Legislature of New York framed a school law and submitted it to the people, one section providing that "the electors shall determine by ballot at the annual election to be held in November next whether this act shall become a law"; and a further provision was made, in another section, that in case a majority of all the votes cast should be against the law, then the act should be null and void; but if the majority was in favor of the law, then the act should become a law and take effect. It was held that the law was unconstitutional; that the legislature had no power to submit a proposed law to the people, nor had the people power to bind each other by it. The Legislature of Delaware passed an act to authorize the citizens of the several counties of the State to decide by ballot whether the license to retail intoxicating liquors should be permitted. By this act a general election was to be held, and, if a majority of votes in any county should be cast against license, it should not thereafter be lawful for any person to retail intoxicating liquors within such county, but if a majority should be cast in favor of license, then licenses might be granted in the county so voting in the manner and under the regulations in the act prescribed. The court in that State held that the act was void, as an attempted delegation of the trust to make laws. (Rice *v.* Foster, 4 Harr., 479.) So, in Pennsylvania, a license law was held unconstitutional on similar grounds. (Parker *v.* Com., 6 Penn. St., 507.) The question was recently discussed in New Jersey in a case testing the validity of the local-option law of that State, and the law was held to be constitutional on the ground that municipal corporations and townships, or the people thereof acting collectively, might be invested with authority to regulate or prohibit the retail of intoxicating liquors. (State *v.* Morris Com. Pl., 7 Vroom., 72; S. C., 13 Am. Rep., 422.) But the court placed the decision distinctly upon the fact that the legislature enacted the law, and that it derived all its force and vitality from the enactment.

The reasoning of the court was in perfect harmony with all the leading decisions. It was said that if the right to declare what the law shall be in one case may be referred to the people, the right to do so may be given in all cases, and thus the legislature may divest itself wholly of the power lodged in it by the fundamental law, until by subsequent legislation it shall be rescinded; that it is also obvious that it is not competent to delegate to the people the right to say whether an existing law shall be repealed or its operation suspended. To say that what is now the law shall not hereafter, or shall not for a specified time, be the law, is in effect to declare the law to be otherwise than it now is and is a clear exercise of the lawmaking power. The will of the legislature must be expressed in the form of a law by their own act. If it is left to the contingency of a popular vote to pronounce whether it shall take effect, it is not the will of the lawmakers but the voice of their constituents which molds the rule of action. If the vote is in the affirmative, it is law; if in the negative, it is not law. The vote makes or defeats the law, and thus the people are permitted unlawfully to resume the right of which they have divested themselves, by a written constitution, to declare by their own direct action what shall be law.

After pursuing this course of argument, the court declared, upon an examination of the act under consideration, that the test was whether

the enactment, when it passed from the hands of the lawgiver, had taken the form of a complete law, and it was decided that it was a complete law. It denounced as a misdemeanor the selling of liquor without a license, so far as it was positive and free from any contingency. It left to the popular vote to determine, not whether it should be lawful to sell without license, but whether the contingencies should arise under which license might be granted.

Our form of government is a democracy, but it is a representative democracy. It is impracticable for the people to assemble in mass to make laws, hence the power was delegated to representatives chosen for that purpose. It is not only the right of the representatives, when assembled in the legislature, to make laws, but it is their duty to do so. When the people, through the Constitution, delegated the lawmaking power to the legislature, it conferred an authority and imposed a duty which could not be exercised by any other body of men. Therefore, every law, to have any binding force or validity, must, when it emanates from the legislative body, have the form and character of a complete enactment. It must operate by virtue of the legislative authority and not depend upon popular action or the people's suffrages for its vitality. If the law is regularly enacted according to the prescribed forms of legislative procedure, it may well be allowed to depend upon contingencies for its operation upon classes or localities, but it can not be made to depend for its existence upon any other than the legislative will.

Is the law we are now considering in reference to the restraint of animals a valid law or is it a mere proposition to the people of certain counties to make it a law if they see proper to do so? It is very evident that it can have no existence or obligatory force unless the same be imparted to it by a vote of the people. The title to the act does not purport to be the title of a general law or of a legislative enactment, but it declares that it is an act to prevent domestic animals from running at large in those counties which, by a majority vote, may decide to agree thereto; not an act of the legislature, but an act of the counties which may in reality adopt it. The title is a fair index and exponent of the true intent and meaning of the law. The first section provides that the county court of any county may submit to the voters the question of restraining domestic animals, and then it is declared in the second section that, if a majority of the votes in any county is in favor of the restraint, then it shall be unlawful in that county for animals to run at large, according to the provisions of the third section. The fourth section prohibits the county court from ordering a special election for the adoption of the law oftener than once in each year. In other words, this last section gives the voters of each county the authority, once in each year, to determine whether they will enact a law for their special benefit. If they decline, under the provisions of the first and second sections to legislate on the subject, then the law has no existence. The law is entirely special in its nature, and whilst under the construction that has been given to the clause in the Constitution in regard to special legislation, it has been held that the legislature was to judge whether the special law was needed or was applicable, it was at the most of even this construction a legislative discretion, and could be exercised only by the legislature. But here the legislature does not assume that, even in its opinion, the law is necessary in a given or particular county. It remits the question wholly to the county itself. The second, or amendatory act, is made entirely applicable to St. Louis County, and by the act the people of the county determine for themselves whether they shall enact a special law. It is true the last-named act does not provide for a new election, but the law only has any force or existence at all in the county by virtue of the election in the first instance. In examining the whole act I am unable to arrive at any other conclusion than that the law depends altogether on a vote of the people and that it should be declared void as being an attempt to exercise the lawmaking power by a body other than the legislature.

I therefore think the judgment should be reversed. All the judges concur except Judge Vories, who is absent. Judgment reversed.

In Sixty-first New Hampshire Reports, page 329, I find that the court has this to say in the case of State against Hayes:

In the organization of the State government, for reasons by them deemed sufficient, the people vested the supreme legislative power not in themselves, but in certain agents, as a personal trust to be executed under the obligation of an official oath. By this oath they bound each senator and representative "accepting the trust" to the support of the constitution and the constitutional performance of his fiduciary duty. (Constitution, Art. II, 84.) They were of opinion that while there might be good reason for granting to municipalities a limited power of making local law, it was not wise to attempt to carry on the work of State legislation in town meeting. They might have made an effort to overcome one of the difficulties of that method by authorizing a State committee to propose laws and requiring the governor to ascertain and proclaim the result of the popular vote in the manner adopted by the act of 1879. They preferred, and they established, a representative repuolic; and they did not confer upon the legislature the power of abolishing it, repealing the second article of the constitution, and changing the supreme law-making body into a committee on proposals. That power the legislature would have if they could transfer from themselves to others the responsibility of passing or refusing to pass a law of a nonlocal character. If the power of general legislation could be conveyed by the act of 1879 to those who might be induced to exercise it in town meeting, all laws cculd be made and repealed in the same way, and the reprecentative character of the government could easily be extinguished. If the senate and house can transfer the powers and responsibilities of general legislation, they can select their assignee, to whom all executive and judicial functions being also conveyed by the governor, council, courts, and juries, the concentrated despotism, prohibited by the thirty-seventh article of the bill of rights (Ashuelot R. R. Co. *v.* Elliot, 58 N. H., 451, 452, 453), can be introduced.

Mr. President, it seems to me that the logic of these decisions is absolutely incontrovertible. I shall not take the time to quote from these other decisions, but will put them in the RECORD. As I said in the case reported in Sixty-first New Hampshire, the various decisions on both sides of the question are very fully considered not only in the briefs of counsel but by the court itself, and the court reaches the conclusion that such laws are unconstitutional. As I said a while ago, there is much more reason for holding such a referendum unconstitutional in the District of Columbia than in any State in the Union.

WHY TEMPERANCE PEOPLE OPPOSE REFERENDUM IN DISTRICT.

Some will ask why the temperance people are asking for a referendum to the States on the question of national prohibition and are opposing a referendum to the people in the city for District prohibition. The reason is plain to anyone who will think it over, even for a moment. The one is clearly constitutional and the other is of doubtful validity. A referendum to the States, through their legislatures, to amend the National Constitution is the method provided by that instrument. A referendum direct to the people of the District of proposed legislation is not provided for in the Constitution and is of more than doubtful validity. Furthermore, there can be no justification in singling out one subject for a referendum when such a proceeding is wholly contrary to the policy of the Government of the District and especially so where there is neither a system of determining any electorate nor any machinery to record the will of any who might be enfranchised. Many interlocking questions must be considered before any such legislation is proposed. What sort of suffrage shall we have—manhood, equal, qualified, unqualified, limited, or unlimited? These must necessarily be determined before a referendum can be had. If the Congress wants to give sovereignty to the District, let it do so in the regular and constitutional way, and then after that referendums may be justified.

It is sought to scare the business men of the District of Columbia. The National Hotel Gazette, which seems to be one of the special advocates of the liquor traffic, in its issue of January 24, 1916, said:

Prohibition in Washington spells ruin for the Capital of the great Republic. It will cease being the show city of the Nation and will become a way place on the map of the country. It will be shunned by the traveler and hated by the resident. Real estate values will suffer immeasurably, and the activities of its municipal life will be greatly hampered.

This is certainly a direful and doleful prediction, but it is so extravagant as to carry with it its own refutation. I will, however, allow one to answer this prophecy who used substantially the same arguments in the city of Seattle last fall, when the State of Washington was about to vote upon the State-wide prohibition amendment to its constitution. Maj. C. B. Blethen is the energetic and able editor of the Seattle Times. Seattle is a seaport city almost as large as Washington. The Seattle Times opposed the prohibition amendment most vigorously. Prohibition carried, and Seattle became dry January 1 of this year.

FORMER OPPONENT OF PROHIBITION IN SEATTLE RELATES BENEFITS.

This is what Maj. Blethen said in an interview in the Kansas City Times of February 9, 1916:

My paper fought its damnedest against prohibition. We fought it on economic grounds alone. We believed that in a great seaport city with a population of upward of 300,000 prohibition would be destructive; it would bring on economic disaster. We believed that under our system of licensing saloons we had the liquor traffic about as well controlled as it could be, and we wanted to let it alone, and so we fought as hard as we could fight. But, in spite of all we could do against it, prohibition carried, and it went into effect in Washington January 1. We have had a month of it now.

And how has it worked out?

BUSINESS EXPANDED QUICKLY.

We already know that it is a great benefit morally and from an economic standpoint. Its moral benefit has been tremendous. Seattle had 260 saloons, and we had an average of 2,600 arrests a month for crimes and misdemeanors growing out of liquor drinking. In January we had only 400 arrests, and 60 of those were made January 1 and were the results of hang overs from the old year. That in itself is enough to convince any man with a conscience that prohibition is necessary. There can be no true economy in anything that is immoral.

And on top of that great moral result we have these economic facts: In the first three weeks of January the savings deposits in the banks of Seattle increased 15 per cent. There was not a grocery store in Seattle that did not show an increase of business in January greater than ever known in any month before in all the history of the city, except in holiday time. In all the large grocery stores the increase was immense. In addition to this, every dry-goods store in Seattle except one, and that one I have no figures from, had a wonderful increase in business. Each store reported the largest business ever done in one month, except in holiday time.

THE WOMEN AND CHILDREN PROFIT.

I wished to know in what class of goods the sales increased so greatly, and so I sent to all the grocery and dry goods stores to find that out. And to me it is a pitiful thing, and it makes me sorry that we did not have prohibition long ago—that the increase in sales in all the dry-goods stores was in wearing apparel of women and children and in the grocery stores the increase was made up chiefly of fruits and fancy groceries. This proves that it is the women and children who suffer most from the liquor business, and it is the women and children who benefit greatest from prohibition. Money that went formerly over the bar for whisky is now being spent for clothing for the women and children and in better food for the household.

It is just like this: When you close the saloons the money that formerly was spent there remains in the family of the wage earner, and his wife and children buy shoes and clothing and better food with it. Yes, sir; we have found in Seattle that it is better to buy shoes than booze. The families of wage earners in Seattle are going to have more food and clothes and everything else than they had before.

IT ACTUALLY PROHIBITS.

And is the prohibition law enforced?

Absolutely. Prohibition does prohibit.

And how about the empty saloons and the landlords who own them?

Many of them have already been made over and are occupied by other businesses. I will venture the prophecy that in one year from to-day

you won't be able to find a place in Seattle where there was a saloon. They will all be occupied by other businesses. And prohibition has not lowered rents. I know of one big dry-goods store that has already had its rent raised since prohibition went into effect.

COAST STATES ALL WILL BE DRY.

Oregon also went dry January 1. California is the only wet State left on the Pacific coast, and it will go dry January 1, 1918. And those three States will remain dry to the end of time. None of them would ever have saloons again. Those who were honestly opposed, as I was, to prohibition in Washington and Oregon have been converted to it, as I have been, by the actual evidence that prohibition is a fine thing from a business standpoint. No city and no community, too, can afford to have saloons. They are too expensive, morally and economically. In a very few years there will not be a licensed saloon in the whole Nation, and that will be a fine thing.

Mr. THOMAS. Mr. President, will the Senator permit me to interrupt him?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Colorado?

Mr. JONES. I yield.

Mr. THOMAS. If the Senator will permit me, I want to add to the statement of the Seattle Times, with regard to the effect of prohibition upon that city, the information which I received concerning the effect of prohibition upon the city of Denver, where I live. My information is that its effect there—and it went into operation on the 1st day of January—is confirmatory in every particular of the account given of its effect and operation in Seattle.

Mr. JONES. I could read statements from other cities and towns in my State, all bearing out this same statement; but the case was so well stated by Maj. Blethen, who was one of those who honestly opposed the proposed law in the first place, that it seemed to me sufficient to read his statement to the Senate.

Mr. THOMAS. I interrupted the Senator from Washington also because the city of Denver is only a few thousand smaller in population than the city of Seattle, and the argument made in Denver against prohibition—and I thought there was a good deal of it—was along the same lines on which it was made by the editor of the paper from which the Senator has read. The prophecies and predictions which were made of the effect of prohibition upon large cities—it being conceded that it would not be the same in the smaller places—have all been unverified by the logic of events.

SUPPORTER OF REFERENDUM SHORT-SIGHTED.

Mr. JONES. Mr. President, the business men of this District who support this referendum are following a very short-sighted policy, in my judgment. Forty or fifty thousand residents of the District have retained their legal residences in the States from which they came. They did this under the law and the Constitution, and they certainly had a right to expect this status to continue until other provisions should be made for the preservation of their rights. They now have the right to vote for President, Senators, Representatives, and for State officers in their respective States. They are the best and most intelligent residents of the District and of the principal customers of these business men, except of the saloons.

If this referendum is submitted, these people must disfranchise themselves and lose all the rights which they prize so highly, in order to vote upon one proposition here or else they must refuse to vote upon such a proposition, although it may be of the greatest interest to them. What does any business man hope to gain by slapping these people in the face this way? If he seeks financial gain, he will surely be the loser in the end. Who will be the gainer from that condition? The saloon interest, and it knows it.

He is shortsighted in allying himself with that baneful traffic that is more and more becoming obnoxious to the best sentiment of the Nation. This is the people's Capital. It is maintained for the Nation and not alone for the residents of the District. Every section of the country is interested in making this the most beautiful Capital of the world, and they want it beautiful in morals, intelligence, and in those conditions that make for happiness and comfort in the home. I went all over my State last summer telling of the beauties of our Capital, and the statement that this is the Capital of the whole country and that all the people are interested in it and that it should be made the most beautiful Capital in the world was enthusiastically approved. Make them believe that the business men of Washington have no regard for the moral sentiment of the country in the gratification of their own selfish desires, and they will make their displeasure felt in a way that will not promote the selfishness of such business men. There is a moral sentiment in Congress that is going to become stronger as the force for decency, good living, law and order increases. They would better ally themselves with that force rather than with that interest which thrives on vice, corruption, desolated homes, ruin, and financial and moral wreckage.

Those who believe in self-government for the District will not help their cause by favoring this referendum, assuming that Congress has authority under the Constitution to grant legislative self-government to the people of the District. It simply lets the people say "yes" or "no" upon a single proposition under the most unfavorable circumstances. Instead of furthering self-government, it will undoubtedly retard it.

There is also a sentiment, growing stronger and stronger and which will eventually prevail, that the women of the country are as intelligent and as capable of voting as the men. No one will deny that the women of any locality are as capable of passing upon the question of prohibition as men, if not more so. They know what the liquor traffic is; they know how it works; they know its terrible effect upon the flour barrel, the clothes closet, the bank account, the bodily health, the morality of humanity and the happiness of homes more even than men. She it is that must endure the most intense suffering that comes from the liquor traffic. This is said to be a referendum to the people. The people's will, we are told, should control on this great moral issue; and yet every ignorant, besotted, vicious, corrupt, and unconvicted man is permitted to vote under this so-called people's referendum upon this great moral issue, while every intelligent, refined, educated, pure, home-loving, God-fearing woman is excluded from voting upon it.

Stripped of all the gloss of political liberty and professions of friendship for the people's will, this proposition is a plan that will permit crime, debauchery, corruption, ignorance, and intimidation to ally itself with something of decency and intelligence in behalf of a traffic that produces more crime, more poverty, more sorrow, more suffering, and more broken hearts and desolated homes than any influence since the world began, and to exclude the highest intelligence, the sweetest influence, and the strongest civilizing force in the world from assisting in the overthrow of this accursed traffic. Stripped of all its professions of personal rights and political privileges, this referendum might well say with the Veiled Prophet of Khorassan:

Here judge if hell, with all its power to damn,
Can add one curse to the foul thing I am.

MANUFACTURE OF ARMOR.

Mr. CURTIS. Mr. President, it was not my intention to take up the time of the Senate in a discussion of the subject of the Government manufacture of armor as provided in Senate bill 1417, because I had hoped and expected that members of the committee reporting the bill would favor the Senate with a full and complete statement in regard to the measure. Not having had the pleasure of hearing the bill discussed and explained, I concluded to carefully examine the hearings, the bill, and the report.

I am opposed to the bill for several reasons, but will take the time of the Senate only long enough to mention one or two of them.

It seems to me that before voting upon this measure, which calls for an appropriation of $11,000,000 and will likely take much more from the Treasury if the project is authorized, the Senate should consider the condition of the Treasury and the calls that are likely to be made upon it within the next year. The excess of ordinary disbursements over ordinary receipts up to March 16 for the fiscal year 1916 amount to $59,927,291.55. The estimates of the regular annual appropriations for the year ending July 1, 1917, amount to $1,285,857,808.16, which is an increase of $195,082,673.78 over the estimates for the year ending July 1, 1916. It must be remembered that the estimates for 1917 are the largest ever before sent to Congress, and the indications are that a much larger sum will be called for and appropriated before the year is ended.

In view of the fact that this administration has been compelled to resort to a war tax in the time of peace, and the majority in Congress is now looking for more items to add to the war-tax list it seems to me that the exercise of good judgment would cause Congress to make no appropriations except those which are actually needed. Measures that are not necessary should be delayed until some future time.

The bill calls for an appropriation of $11,000,000, but a careful reading of the hearings will convince anyone that a much larger sum will be required if the project is undertaken. I desire to call your attention to pages 137 and 138 of the hearings:

Senator CHILTON. How much armor plate will the Government require from this time on by the naval program?

Admiral STRAUSS. It will require about 120,000 tons of armor in the next five years.

Senator CHILTON. About 25,000 tons a year?

Admiral STRAUSS. It will require 113,000 tons actually to be placed on ships and then the test plates amounting to about 7 per cent must be added to that; in other words, they will have to produce about 120,000 tons in the five-year period.

Senator CHILTON. This bill provides for a plant to cost not exceeding $11,000,000. Have you gone into that question? I believe you said you had, and that that would build a plant that would produce about 10,000 tons a year?

Admiral STRAUSS. No, sir; that was for the 20,000-ton plant.

Senator CHILTON. This $11,000,000 is?

Admiral STRAUSS. Yes, sir.

Senator CHILTON. That would not be quite as much as we would need, would it?

Admiral STRAUSS. If the building program is carried out, it calls for 24,000 tons per annum average.

Senator CHILTON. What arrangements did you have in mind, or has the department in view, to provide the other 4,000 tons?

Admiral STRAUSS. We have made no arrangement for the other 4,000 tons.

Senator CHILTON. Have you made any estimate or investigation to enlighten the committee as to how soon with this expenditure we could begin the production of armor?

Admiral STRAUSS. We estimated we would have the plant completed in three years from the time that we were authorized to construct it. That estimate was made about a year ago, and undoubtedly now the time would have to be increased and the cost would have to be increased if the present prices and demand for all these materials remains as at present.

Senator CHILTON. In other words, you can see at least three years of an interim before we could begin the production of armor plate, before the plant would be ready. Now, what is your idea of what would become of us in the three years intervening; what would we do for armor plate in the meantime?

Admiral STRAUSS. We would have to buy our armor plate just where we are buying all of it to-day, from existing manufacturers.

Senator CHILTON. Supposing they would quit making it? Have you contracts covering that period?

Admiral STRAUSS. No, sir.

To show that there is quite a difference of opinion as to what such a plant would cost, I desire to call your attention to pages 139 and 140 of the hearings:

Senator PENROSE. Admiral, you have stated that this $11,000,000 would build a plant that would have a capacity of about 20,000 tons a year?

Admiral STRAUSS. Yes, sir.

Senator PENROSE. Mr. Dinkey has stated to-day that, in his opinion, it would build a plant with a capacity of ten or twelve thousand tons. There is considerable difference of opinion here. I would like to ask Mr. Dinkey whether he can explain it.

Mr. DINKEY. I think I have had a little more experience in the business than the admiral has had; and for a great many years I have been very careful to make my estimates a little higher than I did previously, because I have had some very bitter experiences before boards of directors when I overran my estimates. So I think to build a 20,000-ton plant for $11,000,000 you would find it overrun a very great deal.

* * * * * * *

Senator PENROSE. We have struck a very serious difference of opinion as to capacity, varying 100 per cent. Now, I would like to find out just what difference there is in cost to the Government?

Mr. GRACE. In reference to the cost of plants, if you wanted me to speak on that, as we deducted at Bethlehem at the same time this report was being made, I would say I had our engineers prepare an estimate for me of what it would cost us to build at that time a 20,000-ton plant; and I have not those figures with me, but it is somewhere between $14,000,000 and $15,000,000.

Then, again, your attention is called to pages 156 and 157 of the hearings.

Senator SMITH of Maryland. What is your idea, Mr. Secretary, of the amount of armor plate that would be required per year for the next five years? It is 25,000 tons a year, as I understand it?

Secretary DANIELS. If this program goes through we would need 120,000 tons.

Senator SMITH of Maryland. About 25,000 tons a year for the next five years.

Senator CHILTON. That is 113,000 for our actual needs, and then 7,000 tons for testing purposes.

Senator SMITH of Maryland. Is it your idea the Government should make about 20,000 tons of that per year?

Secretary DANIELS. That is a matter, Senator, for the Congress. My estimates, made in November, allowed for a factory that would make 10,000 tons a year. In the report of the committee they pointed out that you could make it much cheaper if you made 20,000 tons, which, of course, is true.

The distinguished chairman of the committee, in a statement to be found in the hearings on page 166, tells how the question of the cost of constructing a 20,000-ton plant was reached. It is very interesting.

The CHAIRMAN. Mr. Secretary, as to this proposition for a 20,000-ton plant, the estimate of cost is based upon its running all the while—three shifts. It is not customary to run Government plants 24 hours in a day. Therefore, unless there is an emergency, we could reduce the time of manufacturing armor to eight hours a day, and jog along in that way, and the cost would not be as much as we are now paying.

Mr. BARBA. It is not possible, Mr. Chairman, to run an armor plant 8 hours a day. It is not physically possible.

Mr. GRACE. The operations require continuous work.

Mr. BARBA. The operations require absolutely continuous performance 24 hours a day 7 days a week.

The CHAIRMAN. You mean the heat has to be maintained?

Mr. BARBA. Yes, sir. I instanced a week ago in my testimony one operation, which is common to every armor plant, which requires from 18 to 25 days' continuous operation at a temperature of 2,000° F. without cessation. You can not do that on an 8-hour basis.

The CHAIRMAN. That is one of the special parts of the manufacture, however.

Mr. BARBA. You can do that in the case of machines where the tools may stand idle.

The CHAIRMAN. My judgment would be it would be possible for the Government armor factory to run on those processes which are not necessarily continuous in such a way as not to make it necessary, and you could get the same results, and you could expand and run 24 hours a day in an emergency.

Mr. BARBA. But, Senator TILLMAN, where does your cost go under such an operation as that? When you are working 8 hours a day and the plant is idle 16 hours a day, everything stops more than 16 hours a day. It takes longer than 8 hours a day to pick up and get going. You need a little manufacturing experience, Senator, to show you the truth of these statements I am making to you.

There are now three plants, privately owned, which are able to furnish the Government all the armor it needs and more, and it is perfectly evident that a Government plant is not needed, and Admiral Strauss admits that there would be no especial advantage to the Government in going into the business if the private firms would furnish armor at a fair profit, and will continue to do so under all conditions. (See hearings, p. 145.)

In this connection I would like to print, as a part of my remarks, a short editorial on that feaure of the subject which covers the question fully.

The PRESIDING OFFICER. In the absence of objection, permission is granted.

The editorial referred to is as follows:

GOVERNMENT ARMOR PLANTS.

No more fallacious theory could be held by men responsible for shaping national policies than the plan of the Senate Naval Committee to establish Government armor-making plants. The Government could not successfully operate such a plant, and should not if it could. Senator TILLMAN, in presenting the committee's report urging Government ownership, declared that the armor-plate manufacturers are in the habit of "holding up" the Government as to prices, and that their "stand-and-deliver" policy is responsible for the determination to have the Government make its own plate.

It is not necessary to challenge the correctness of Senator TILLMAN'S assertion regarding the attitude of manufacturers in order to show the unwisdom of the course he advocates. It may be true, doubtless it is true, that the three large manufacturers of armor plate, who practically control the industry, have made the Government pay substantial prices—perhaps exorbitant prices. The remedy which the Senator prescribes though, is really worse than the disease. It would surely result in a much higher cost for the plate turned out, and it would reverse the true policy which the Government should pursue.

It is preposterous to say that the Government must submit to the exactions of private manufacturers in such a matter, or that its only means of escape is a heavy investment in a plant of its own and heavy maintenance of operative charges permanently. Making armor plate is not a function of Government; and submitting weakly to the exactions of armor-plate manufacturers is by no means a necessity. Armor plate is essential to the defense of the Nation, and, as such, its manufacture comes well within the Government's right of control. In this matter, as in many other phases of "preparedness," the Government's wise policy is to encourage private manufacturers in every possible way, but to control them as well. That is to say, the Government should insist on establishing a cost basis for turning out armor plate, allow a reasonable profit, and possibly allow a fixed sum per annum for the right, in emergencies, to work the plant to its fullest capacity according to the Government's needs.

Such a policy would tie up private enterprise to the Government on a profitable basis, but it would not tie up the Government to a costly manufacturing project. The Nation would control, as it has an undoubted right to control, as to quantity and price of output; but the work of developing new ideas and of bettering quality would be left where it properly belongs, and would be paid for on a basis fair to all.

Private enterprise, made keenly alive to its responsibility to the Nation and held to that responsibility by the power of the Government, would spell efficiency and economy. It would keep politics entirely out of our "preparedness" plans, whatever they may be, and give the country a dependable source of supply for all its needs.

Mr. CURTIS. Mr. President, the bill now under consideration is accompanied by a very unusual, not to say remarkable, report; unusual in the admissions which it makes and remarkable in its demonstration of the animus which seems to have actuated those who are advocating this legislation. I quote from the second paragraph of the report:

The relation of the United States Government to the armor-plate manufacturers has been a continual source of dissatisfaction to those Members of Congress who really do not believe in the doctrine of favoritism to the special interests or in the protective system at all, and a condition has existed little short of scandalous.

It would be difficult to make any connection between the protective system—a system which this country undoubtedly favors—and the making of armor plate. Under the law as it exists the Secretary of the Navy can not purchase armor plate abroad, and therefore it must be constructed either by the Government or by private manufacturers in this country. The possibility, therefore, of the protective system affecting it in any way is utterly absurd. That being the case, in what way has favoritism influenced special interests in this industry and what is the condition that is little short of scandalous? There are three firms manufacturing armor plate, having a total capacity of at least two and one-half times the average output during the last 16 years. That there have not been additional plants established is quite apparently due to two reasons—one, that already the market is oversupplied with a capacity to manufacture, and another that it requires a very large investment in order to construct a plant suitable for this purpose. If there were any possibility of steady and profitable employment, of course, there would be additional manufactories established,

but the uncertainty of Government work, the dependence on the whims of Congress from year to year about the amount of armor to be manufactured, and the other burdensome conditions which accompany manufacturing for the Government have very naturally been sufficient to deter other manufacturers from undertaking this business.

Is it favoritism to special interests for this Government to buy what it needs of its own citizens, of plants represented by large numbers of stockholders and employees, and is it scandalous for them to consult with the Navy Department about the contracts which they are asked to take? If such a condition is true, it opens up a very interesting proposition. If it is so, why does not the party now in power repeal the provisions which prevent the Secretary of the Navy buying from foreign manufacturers and open this particular product to the competition of the world? It is apparent that there are two reasons for not doing this, one being that it would not be a fortunate political move and another being that it would be contrary to every reasonable public policy to allow the citizens of other countries to manufacture those things which are vital to our preparation for national defense.

This report goes on to say that from 1887 to 1915 investigation has followed investigation without result. Why has there been no result if it has been advisable to make a change? Congress has been in the hands of the Democratic Party three times since the first date mentioned. If it has been desirable to make a change, why has not the change been made? The reason is that heretofore those who have believed that better results might be obtained if the Government manufactured armor plate have on investigation failed to find sufficient reasons for making any change and have abandoned the attempt. It has remained for the present Committee on Naval Affairs, without sufficient knowledge and with no really accurate basis for its conclusions, to propose to put the Government into the manufacture of this material.

It is true that there is only one customer in the United States for this product—the Government; but it is not true that there are no other customers, as is evidenced by the fact that sales have already been made abroad; that we recently obtained the building of a battleship for the Argentine Government, and American armor was used for that purpose; that the possibility of developing this business is very material, a possibility which, however, would at once be eliminated if we turn over to the Government the manufacturing of armor instead of continuing to purchase of private producers. No foreign Government would consider for a minute the question of purchasing armor from another Government manufacturer.

It is especially important that we continue in condition to supply the needs of South American countries. This administration is advocating closer relations, even those relating to the question of offense and defense, with the countries in South America. It is desirable to standardize the material used in national defense, and if those countries can be induced to use our material until they have for the time being supplied their needs it will, from the very nature of the requirements, lead them to continue to use material manufactured in this country. When the Secretary of the Treasury and a commission are on their way to South America, and when other agencies are actively employed to bring about closer business arrangements between the United States and that continent, for us to deliberately legislate on this subject in such a way that it precludes the possibility of obtaining this business is shortsighted and foolish in the extreme.

The report goes on to say, speaking of there being but three armor-plate manufactories in the country:

> The result is either a monopoly or a combine of the worst type.

I have carefully read the testimony taken by the committee, and I find neither of these statements corroborated. There is certainly not a monopoly, because there are three distinct manufactories which have different officers, different stockholders, and are located in different sections of the State of Pennsylvania. There is not a word of testimony that there is any collusion between them; in fact, the evidence shows that one of the companies failed one year recently to receive any business direct from the department. An attempt was evidently made to disprove the denial that there was a collusion. For instance, on page 52 of the report of the committee I find the following, which presents not only the denial of there being a combination but indicates better than could be done otherwise the temper with which the members of the committee have seemed to approach this subject. It can not be encouraging to business men of the United States to undertake work for the Government if they must be told when submitting testimony that it is not true or probably is not true.

I desire to insert in my speech an extract from the hearings.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The matter referred to is as follows:

> The CHAIRMAN. You have got some appliances down there that are needed only for making armor?
> Mr. DINKEY. Yes, sir; and they can not be used for anything else.
> The CHAIRMAN. And, therefore, they would be a dead loss to you if the Government should go into the manufacture of its own armor. The Government is helpless, so far as the price of armor is concerned when there are only three makers of it, and they are working in combination, charging whatever price they agree upon.
> Mr. DINKEY. The three are not in collusion.
> The CHAIRMAN. You say so; but we think they are. I hope you are telling the truth.
> Mr. DINKEY. I can tell you now that they are not in collusion, and I do not know how I can make you believe that I am telling the truth.
> The CHAIRMAN. The fact that Carnegie did not get any of this last contract would indicate that somehow or other the cogs had slipped and the machine did not work well. Do you know just why you did not get it? Are you willing to tell?
> Mr. DINKEY. I tried hard enough to get it, but could not. I tried to meet the Secretary's views, and I did revise my bids after he asked us to, and I did not make them sufficiently low, I imagine.
> Mr. PADGETT. Upon that question, however, the contract was awarded to the other two with the stipulation that they could sublet part of the contract, and you are not out of the game yet.
> Mr. DINKEY. The deliveries required are faster than the plants that have the contracts will be able to make them.
> The CHAIRMAN. Therefore they will have to come to you, because you are the only other man that can help them out. Don't you know that you have got the Government in your power?
> Mr. DINKEY. I do not think I have.
> The CHAIRMAN. If the Government can only get from certain factories its armor, and nobody else can supply it, it seems to me that the Government is utterly helpless.
> Mr. DINKEY. Look at the other side. These tools are useful only for Government work. If the Government does not buy they lie idle.

Mr. CURTIS. Mr. President, I have read these hearings very carefully, and I want to say to the Senate that I did not find in those hearings a single line, not one word, from an expert that would justify the Government of the United States in undertaking to build this armor plant. Further than that, I did not find any expert testimony that would justify the statement in the report that the plant could be constructed for $11,000,000.

I ask—because I believe the Senate should do it—every Senator to read the hearings before he votes upon this question next Tuesday.

INCREASE OF NUMBER OF CADETS AT WEST POINT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4876) to provide for an increase in the number of cadets at the United States Military Academy.

The PRESIDING OFFICER. The question is upon the adoption of the amendment offered by the Senator from Missouri [Mr. REED].

Mr. JAMES. Mr. President, I think the amendment I have to the amendment is now in order.

I move that after the word "Army," in the amendment of the Senator from Missouri, the words "and the National Guard" be inserted.

That makes necessary two other amendments in the same section. Also, on page 2, line 10, after the word "Army," insert "and the National Guard." Also, on page 2, line 14, after the word "Army," insert "and the National Guard."

The PRESIDING OFFICER. The Secretary will state the amendment to the amendment.

The SECRETARY. In the amendment proposed by the Senator from Missouri, after the word "Army," insert "and the National Guard," so that the proviso will read:

> *Provided, however*, That the number of cadets at the United States Military Academy thus selected by the President from the enlisted men in the Army and the National Guard shall not at any one time exceed 300.

Then, on page 2, line 10——

Mr. SMOOT. Mr. President, I suggest to the Senator from Kentucky that he simply amend the amendment of the Senator from Missouri. Then, of course, if the Senate accepts that amendment, he can offer the other amendments to the bill.

Mr. JAMES. The Senator, though, would not accept it. I did submit it to him.

Mr. SMOOT. I say, if the Senate accepts it—not the Senator from Missouri.

Mr. JAMES. I think, though, this amendment that I offered to the amendment of the Senator from Missouri makes necessary these other changes.

Mr. SMOOT. Oh, yes; they ought to follow, and if the Senate accepts one they will accept the other.

Mr. SMITH of Georgia. The first question is on the amendment of the Senator from Kentucky, which perfects the other amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The Secretary will read the amendment of the Senator from Missouri as now amended by the amendment offered by the Senator from Kentucky, and agreed to.

The SECRETARY. The section as amended would read:

SEC. 2. That the President is hereby authorized to appoint cadets to the United States Military Academy from among enlisted men of the Regular Army and the National Guard between the ages of 19 and 22 years who have served as enlisted men not less than one year, to be selected under such regulations as the President may prescribe, at the rate of five for each regiment of the mobile Army and the National Guard and equivalent units of organizations of other arms, and the Corps of Cadets is hereby increased to the number necessary to provide for maintaining hereafter five representatives of each organization as herein prescribed: *Provided, however,* That the number of cadets at the United States Military Academy thus selected by the President from the enlisted men in the Army and the National Guard shall not at any one time exceed 300.

The PRESIDING OFFICER. The question is upon the adoption of the amendment as amended.

Mr. NEWLANDS. Mr. President, I should like to ask the chairman of the committee how many cadets in all will be at the Military Academy under this plan?

Mr. CHAMBERLAIN. Mr. President, if this amendment is adopted, it will increase the number so that they can not possibly be accommodated at this time. That was one of the main reasons why I objected to the amendment and I hope the Senate will vote it down.

Mr. NEWLANDS. The Senator says it will increase it beyond the accommodations?

Mr. CHAMBERLAIN. Yes, sir.

Mr. NEWLANDS. I did not hear what the total number would be. I should like to know what it will be.

Mr. CHAMBERLAIN. I will state to the Senator that without this proposed amendment, with the Army as at present organized, there would be 1,196.

Mr. SMITH of Georgia. This amendment increases it by 240. We already have one from each regiment provided for in the bill.

The PRESIDING OFFICER. Senators will please address the Chair. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. CHAMBERLAIN. I yield. Does the Senator desire me to answer that question? As at present organized, this bill would practically double the present Cadet Corps in the academy. It would make it amount to about 1,196, with the Army as at present organized.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Mississippi?

Mr. CHAMBERLAIN. Just a moment. That would be the number provided for by this bill; and with the Army as at present organized, if Congress passes the bill that is pending before the Senate for the reorganization of the Army, it will increase that number still more—about 60 more—and that would be about 1,250 or 1,260 altogether. If we add to it what is proposed by this amendment—what was the maximum?

Mr. SMOOT. Not to exceed 300.

Mr. CHAMBERLAIN. That would be something like 1,500 or 1,600 men.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. CHAMBERLAIN. I do.

Mr. SMITH of Georgia. Let me ask the Senator a question. Is it not true that the bill already covers one for each regiment, and there will be about 90 regiments, so that the provision of 5 for each regiment, not to exceed 300, would only add about 210?

Mr. CLARK of Wyoming. Yes; but this provides for the National Guard also.

Mr. SMITH of Georgia. The amendment limits the total appointees by the President to 300. The bill already carries 1 for each regiment—about 90, after the Army increase—so that the increase covered by the proposed amendment could not be over 210.

Mr. LEE of Maryland. Mr. President, I should like to say one word on this very important question. It is absolutely essential to the support and development of any military body to consider carefully the origin of its officers, and the selection and education that developes these officers.

The Senate has just passed an order—and I am much obliged to it—for the purpose of printing the Swiss military law. That law has created one of the greatest citizen armies in the world. With it will be printed the last reports from our military attachés at Berne. The Swiss Army is based upon great military and democratic principles. One of these great principles in that law is this: That in order to be a noncommissioned officer a man must go through a school to which he is nominated by his superior officers. In order to be a commissioned officer he must go through a school for commissioned officers to which he is nominated by his superior officers. So that there is a selection there by the men who can best judge of the capacity of the candidate for the military office to handle men.

This system of sending boys, wholly untested in any school of effort, to West Point, by the Senate and by the House and by the President, gives no selection as to the capacity to handle men of those candidates for West Point's military opportunity; but this provision for the choice of West Point candidates from these two great bodies of troops, the National Guard and the Regular Army, gives an opportunity for the selection by the men over them of the best element in each company or each regiment for the handling of men and the making of officers.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Mississippi?

Mr. LEE of Maryland. I do.

Mr. VARDAMAN. The bill does not in any way change the method of selecting from that which has obtained in this country for the last 50 years. Has the Senator any criticism to make of the results of the old system, which has been in vogue so long? West Point has turned out pretty good men under the old way of selecting them, and by the amendment proposed by the Senator from Missouri [Mr. REED] you have men selected from the Army who have given one year of service and have shown their fitness for the very things that the Senator has just mentioned in the Swiss plan. I can not see the wisdom of changing, since the old way, tested by time and trial, has proven so satisfactory. I confess that I was never much inclined to imitate even the best systems of Europe. I am intensely American in all my ideas, tastes, and aspirations.

Mr. LEE of Maryland. Mr. President, of course in any noncompetitive system of selection you will have a large number of persons passing through the machinery of the Military Academy who will pass intellectually but who are not real officers, not handlers of men; and I venture to say that there is a percentage of the officers of the Regular Army of the United States who could not stand alone except for the support and system of the great army plan.

Without dealing with that question any further, because it is merely a question of guesswork, so to speak, this great Swiss system—and the President of the United States has the authority here to put in operation something quite like it—this law that we are about to pass provides for the selection under such regulations as the President may prescribe; and it is almost a certainty that the President of the United States will prescribe some regulation whereby the commanding officer has an opportunity to say something about the fitness of the would-be cadet. Under this great Swiss system the first start in army command is given, according to the language of that law, to those who are described as "apt men," and that aptness is ascertained from their service in the first period as recruits, and later. So we have here in this amendment, giving five West Point appointments to the enlisted men of each regiment of the Regular Army and National Guard, a popular idea, recognizing also the great army of citizen soldiers of the United States, recognizing the rank and file of the Army of the United States, and at the same time, in my humble judgment, tending a great deal to strengthen the manly qualities that already exist in the officers of the Regular Army.

Mr. NEWLANDS. Mr. President, it seems to me there is a great deal in what the Senator from Maryland says upon this subject. I think that if we are going to establish an improved military system everything should be done that is possible to make the service under that system as honorable a service as possible.

We all know that the Regular Army, well organized as it is, and handsomely as it has conducted itself upon every occasion, is not an attractive service to the best youth of the country, and that it never has been. That probably will always attach to a merely paid service, a regular service of volunteers, where the members volunteer and are not drawn upon by the Government as a matter of patriotic duty and patriotic obligation. I imagine, however, that any system that is adopted by Congress in the near future will involve not only a Regular Army but a citizen soldiery, and service in that citizen soldiery will doubtless be a very honorable service and will be sought after; for I have no doubt that the effort of Congress will be to make it attractive and helpful to young men in reaching out for civil vocations, as well as for military training.

I believe that the opening of West Point to men of talent and merit who have shown their ability in the service, as has been proposed by the amendment of the Senator from Kentucky [Mr. JAMES], will be of great service in attracting the best young men of the country into the citizen soldiery, whatever the name may be; and I believe that we might well enlarge that inducement. I see no reason at all, under the new system of efficiency which is to be developed, why Senators and Congressmen should select the men who are intended for West Point. It seems to me that all of these appointments to West Point ought to be held out as the rewards for merit.

Mr. WARREN. Mr. President, may I ask the Senator a question?

Mr. NEWLANDS. Yes.

Mr. WARREN. The Senator was formerly a distinguished Member of the House, as he now is of the Senate. Does he believe that the Members of the House would consent to a bill of that kind going through the House?

Mr. NEWLANDS. I merely throw that out as a suggestion now. I am not going to make any motion to that effect. I think it is a most unfortunate aspect of the case when we are told that simply because Senators and Members of the House of Representatives have at present this form of patronage—for that is what it is—they would adhere to it at the expense of the efficiency of a great military and naval organization which they are about to create.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Mississippi?

Mr. NEWLANDS. I do.

Mr. VARDAMAN. I would suggest to the Senator that there is one advantage in the appointment or recommendation of cadets by the Senators and Congressmen in that it distributes throughout the Republic the favors of the General Government and it brings to the service of the Government citizens from the different States. In that fact, I think, there is great merit. It will equalize and preserve the broad nonsectional American spirit which is an essential element and worthy of consideration.

Mr. NEWLANDS. But that merit could be preserved in the system I suggest.

Mr. VARDAMAN. It ought to be preserved.

Mr. SMITH of Georgia. The bill says they shall be apportioned, as far as practicable, among the States.

Mr. VARDAMAN. Yes; and I think that idea should not be lost sight of. I think the appointments ought to go as a reward of merit in so far as possible.

Mr. NEWLANDS. It seems to me so.

Mr. VARDAMAN. But it is very well to preserve the equilibrium by having the Army made up of citizens from every State in the Republic and from the colonies, since we have become a colony-owning country.

Mr. JOHNSON of South Dakota. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from South Dakota?

Mr. NEWLANDS. Certainly.

Mr. JOHNSON of South Dakota. I should like to ask the Senator a question. I was not here when the amendment was presented, nor have I heard it discussed. Does the proposed amendment eliminate all applicants except those coming from the Regular Army or the National Guard?

Mr. NEWLANDS. Oh, no. There is no amendment to that effect. I am simply making a suggestion that we might well enlarge the operation of the amendment offered by the Senator from Kentucky so that all the appointments to West Point should be made as the rewards of merit in the active service of the citizen soldiery, and partially of the Regular Army. I believe that system would attract many young men into the Army and the military service who otherwise would not be attracted.

I see nothing at all of any value in the power of appointment that Senators and Representatives have. It was the best expedient at the time, I imagine, for the selection of officers of the Regular Army impartially from all parts of the country. We are now, however, entering upon methods for the preparation of an efficient system, whereas heretofore we have had an inefficient system; and it seems to me all these matters ought to be taken out of patronage and ought to be the result of merit, and of merit which has been proved by actual service and experience in the Army.

Mr. SMOOT. Mr. President, I want to suggest to the Senator having the bill in charge that it is now 10 minutes of 5 o'clock on Saturday afternoon, and I doubt very much whether we can get a vote upon this amendment without a yea-and-nay call. I believe it would be impossible to get a quorum at this time, and I suggest to the Senator that he move that the Senate adjourn.

Mr. CHAMBERLAIN. I am very reluctant to do that, Mr. President; but this is a matter of very great importance to the proposed plan of preparedness, if we are going to have any, and it is a matter of vital importance to the Military Academy as well. There are only about 15 or 20 Senators here, if that many. In view of the importance of the matter, and the fact that nothing would be decided by a vote now, I accept the suggestion of the Senator from Utah and move that the Senate adjourn.

The PRESIDING OFFICER. The question is upon the motion of the Senator from Oregon that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 52 minutes p. m.) the Senate adjourned until Monday, March 20, 1916, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 18, 1916.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, Source of all good, humbly and reverently we bow in Thy presence. Help us to make dominant in all the transactions of our daily life the higher qualities of mind and soul, for we realize that to be pure is to be strong; to be sincere is to be courageous; to be generous is to be noble; to be self-sacrificing is to be Christlike; to be just and merciful is to be Godlike. Thus graciously guide us by Thy holy influence. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

STREET RAILWAY COMPANIES, HAWAII.

Mr. HOUSTON. Mr. Speaker, I call up from the Speaker's table the bill (H. R. 65) to ratify, approve, and confirm an act duly enacted by the Legislature of the Territory of Hawaii relating to certain gas, electric-light and power, telephone, railroad, and street railway companies and franchises in the Territory of Hawaii, and amending the laws relating thereto, with Senate amendments thereto, and move to concur in the Senate amendments.

The Senate amendments were read.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 17.

Whereas it is understood that the President has ordered or is about to order the armed forces of the United States to cross the international boundary line between this country and Mexico for the pursuit and punishment of the band of outlaws who committed outrages on American soil at Columbus, N. Mex.; and

Whereas the President has obtained the consent of the de facto government of Mexico for this punitive expedition; and

Whereas the President has given assurance to the de facto government that the use of this armed force shall be for the sole purpose of apprehending and punishing said lawless band, and that the military operations now in contemplation will be scrupulously confined to the object already announced, and that in no circumstance will they be suffered to trench in any degree upon the sovereignty of Mexico or develop into intervention of any kind: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That the use of the armed forces of the United States for the sole purpose of apprehending and punishing the lawless band of armed men who entered the United States from Mexico on the 9th day of March, 1916, committed outrages on American soil, and fled into Mexico, is hereby approved; and that the Congress also extends its assurance to the de facto government of Mexico and to the Mexican people that the pursuit of said lawless band of armed men across the international boundary line into Mexico is for the single purpose of arresting and punishing the fugitive band of outlaws; that the Congress in approving the use of the armed forces of the United States for the purposes announced joins with the President in declaring that such military expedition shall not be permitted to encroach in any degree upon the sovereignty of Mexico or to interfere in any manner with the domestic affairs of the Mexican people.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 4889. An act to permanently renew patent No. 21053.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 562) to amend the act approved June 25, 1910, authorizing a Postal Savings System, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. BANKHEAD, Mr. SMITH